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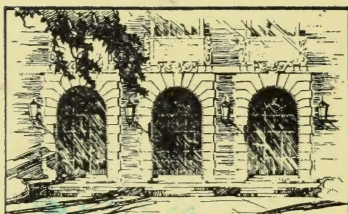
# A HISTORY OF ILLINOIS LABOR LEGISLATION

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❧ ❧ ❧ EARL R. BECKNER

*Social Science Studies*

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**DIRECTED BY THE LOCAL COM-  
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**NUMBER XIII**

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**A HISTORY OF LABOR LEGISLATION  
IN ILLINOIS**

THE UNIVERSITY OF CHICAGO PRESS  
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# A HISTORY OF LABOR LEGISLATION IN ILLINOIS

*By*

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*Associate Professor of Economics  
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THE UNIVERSITY OF CHICAGO PRESS  
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# A HISTORY OF LABOR LEGISLATION IN ILLINOIS

BY  
EARL R. BUCKNER, Ph.D.

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TO  
H. A. MILLIS

Laboe 16 N. 1/2 Sec. 16, T. 10 N., R. 10 E., S. 10 W.,  
May 6, 1882



## PREFACE

In this book, I have attempted to give an accurate and unbiased account of the development of labor legislation in all its forms in the state of Illinois. The central problem in a study of this kind, as I see it, is the discovery and interpretation of the forces and causes, both proximate and remote, which have molded the labor code into its present form. For the most part, the laws themselves are mere resultants of these forces and points of departure for further evolution. Among the forces which have been in the foreground in Illinois are the particular economic conditions, the philosophy of the time and of the courts, the stage of development of labor legislation in other jurisdictions, conditions of competition, certain fortuitous events (such as mine disasters), and the desires, interests, and prejudices of the two contending groups, the employers and the organized workers. The legislature itself has usually been merely the locus upon which these forces impinge.

The desires, interests, and prejudices of the employers and workers present difficult problems. Proper evaluation of the evidence offered by each side is absolutely necessary. Ostensible reasons may not be the real reasons. In this, as in other matters, great care has been exercised to discover the truth. A further problem involving peculiar difficulties is that of discovering and presenting the court-made law governing labor unions and industrial disputes. It is probable that in my discussion of many of these questions, errors of fact and of judgment have intruded. It is likewise probable that I have omitted some matters of importance and have given improper emphasis to others. The work, however, is offered as a sincere effort to shed some light upon the difficult problem of labor legislation by presenting the results of a careful inductive study of the long and varied experience of an important industrial state.

Acknowledgments are due to the Local Community Research Committee of the University of Chicago for financial aid during the period of more than three years in which the work took form

and for providing for the publication of the manuscript. Among the many individuals who have generously given information through interviews or through correspondence are William D. Blatner, Charles J. Boyd, John J. McKenna, Martin A. Cannon, S. W. Wilcox, J. W. Huening, Luke Grant, Duncan McDonald, Reuben D. Cahn, and John Fitzpatrick. To Edwin R. Wright are due especial thanks for valuable criticisms of several chapters of the manuscript; to Miss Agnes Nestor for similar service with regard to the chapter on hours of labor for women; to Hope Thompson for much-needed criticism of the material on labor unions and their methods, and to Victor A. Olander not only for suggestions concerning the manuscript but also for great aid in providing office space and access to source material. Dr. R. W. Stone and Dr. B. M. Squires read the entire manuscript and made suggestions toward its improvement. My appreciation of my indebtedness to Dr. H. A. Millis is more fittingly expressed elsewhere.

EARL R. BECKNER

BUTLER UNIVERSITY

May, 1929



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## CHAPTER I

### INTRODUCTION

#### SCOPE OF THIS STUDY

The boundary between labor legislation and the more inclusive field of social legislation must be arbitrarily drawn. Although the wage-earning class is the chief and direct beneficiary of the public-school system and of many other similar institutions, and has been most active in bringing about their development, we shall exclude them from our discussion. We shall include in our study all statutory provisions designed to regulate the conditions of employment, to aid the wage-earner to find employment, or to protect him from exploitation, and the statutory and common law relating to trade unions and their methods of action.

#### ECONOMIC BACKGROUND

In the study and interpretation of labor legislation, as of any social movement, it is of vital importance to have a knowledge of its economic and social background. We shall present the main outlines of the economic development of Illinois and its relation to the development of a wage-earning population in this introduction, leaving to later chapters a discussion of the wider social background and a study of specific problems affecting the wage-earner and the attempts made to solve them by legislation.

#### GEOGRAPHY AND NATURAL RESOURCES

Illinois, with an area of 56,665 square miles, ranks twenty-third in size among the states of the Union. It lies wholly within the great prairie region, and, with the exception of Louisiana and Delaware, is the most level of the American states. Its soil is very fertile and supports a large agricultural population. Until recent years, agriculture was the predominant industry of the state. In 1920, the

farm population of Illinois was 1,098,262, or 16.9 per cent of the total population of the state. The total value of farm products in 1925 was approximately 463.9 million dollars. Scarcely less important than Illinois' agricultural resources are its mineral resources, of which bituminous coal is by far the most important. In 1925, Illinois produced \$231,680,000 in mineral products, being outranked in this respect by six states, namely, Pennsylvania, Oklahoma, California, Texas, West Virginia, and Ohio.

#### TRANSPORTATION FACILITIES

Because of its location at the southern extremity of Lake Michigan, many of the trunk lines both between the East and the West and between the North and the South enter or pass through it, and thus afford excellent transportation facilities. The state has approximately 12,000 miles of main track railways, and is exceeded in total mileage only by Texas. In addition to ample railway facilities, Illinois has the advantage of cheap water transportation afforded by the Mississippi and its navigable tributaries, and by the Great Lakes.

#### MANUFACTURING

The fact that Illinois has raw materials and markets easily accessible has made of it a great manufacturing and commercial state. Illinois is the most important manufacturing state west of the Alleghenies. The city of Chicago with its large industrial population is the commercial, financial, and industrial center for a large portion of the Middle West. In 1849, Illinois manufacturing industries employed, on the average, only 11,559 wage-earners, representing 1.4 per cent of the total population. By 1919, this number had increased to 653,114, or about 10.1 per cent of the total population. In value of manufactured products, Illinois ranked fifteenth among the states in 1849 and third in 1919. In 1925, the products of Illinois manufacturing establishments had an estimated value of 5,322 million dollars, the value added by manufacture being 2,396 million. The great growth of manufacturing has been accompanied by a corresponding growth of mining, transportation, and trade. Table I gives the number of wage-earners and the value

of products of all Illinois manufacturing industries employing more than 10,000 wage-earners in 1919.<sup>1</sup>

#### GROWTH OF WAGE-EARNING POPULATION

The wage-earning population, which was relatively unimportant in the early history of the state, has shown a tremendous increase since the Civil War. Not only has it increased greatly in

TABLE I

NUMBER OF WAGE-EARNERS AND VALUE OF PRODUCTS OF ILLINOIS MANUFACTURING INDUSTRIES EMPLOYING MORE THAN  
10,000 WAGE-EARNERS, 1919\*

Industry	Wage-Earners (Average Number)	Value of Products (in Thousands of Dollars)
Slaughtering and meat-packing.....	54,179	1,284,103
Foundry and machine-shop products.....	45,879	235,404
Cars and general shop construction and repairs by steam-railroad companies.....	40,219	103,219
Clothing, men's.....	32,896	197,617
Electrical machinery, apparatus, and supplies.....	27,290	119,528
Agricultural implements.....	22,548	128,285
Printing and publishing, book and job.....	21,639	110,886
Iron and steel, steel works, and rolling mills.....	20,177	173,345
Cars, steam railroad, not including operations of railroad companies.....	13,775	125,218
Bread and other bakery products.....	12,418	102,664
Furniture.....	12,294	60,771
Clothing, women's.....	10,278	68,044
Printing and publishing, newspapers and periodicals	10,120	88,946

\* United States Census, 1920.

comparison with the total population of the state, but significant changes have also occurred in the division of its members among the larger occupational groups. The percentage of women employed has increased considerably in recent years. Table II shows the growth of the total population of the state from 1810 to 1920, the number and percentage of persons of each sex gainfully employed, and the sex distribution of total employed persons at each census year from 1870 to 1920.

<sup>1</sup> Later data are not available.

## LABOR LEGISLATION IN ILLINOIS

## OCCUPATIONAL DISTRIBUTION OF POPULATION

Table III gives the number of persons ten years of age and over in each general division of occupations, by sex, at each census year from 1870 to 1920. Inasmuch as the census classification has not

TABLE II

TOTAL POPULATION OF ILLINOIS, THE NUMBER AND PERCENTAGE OF PERSONS OF EACH SEX TEN YEARS OF AGE AND OVER GAINFULLY EMPLOYED, AND SEX DISTRIBUTION OF TOTAL EMPLOYED PERSONS, 1810-1920\*

YEAR	TOTAL POPULA- TION	MALES TEN YEARS OF AGE AND OVER			FEMALES TEN YEARS OF AGE AND OVER			PER CENT OF TOTAL EMPLOYED PERSONS WHO ARE	
		Total	Gainfully Employed		Total	Gainfully Employed		Males	Fe- males
			Number	Per Cent		Number	Per Cent		
1810.....	12,282	†	†	†	†	†	†	†	
1820.....	55,211								
1830.....	157,445								
1840.....	476,183								
1850.....	851,470								
1860.....	1,711,951								
1870.....	2,539,891	946,717	678,732	71.7	862,889	63,283	7.3	91.5 8.5	
1880.....	3,077,871	1,178,131	893,679	75.9	1,091,184	106,101	9.8	89.4 10.6	
1890.....	3,826,352	1,507,159	1,153,249	76.5	1,400,512	200,310	14.3	85.2 14.8	
1900.....	4,821,550	1,922,803	1,509,394	78.6	1,804,942	294,646	16.3	83.7 16.3	
1910.....	5,638,591	2,333,230	1,865,422	80.0	2,160,504	431,356	20.0	81.2 18.8	
1920.....	6,485,280	2,647,505	2,086,800	78.8	2,537,438	540,938	21.3	79.4 20.6	

\* From *United States Census Reports*.

† Data lacking until 1870.

been uniform throughout the period, complete data cannot be given for all of the general divisions used in the last two census years. It is apparent, however, that the mining, manufacturing, trade, transportation, and clerical groups have been growing very rapidly and that the group designated "Agriculture, forestry, and animal husbandry" has not only decreased in relative numerical importance, but has declined in absolute numbers since 1900, the peak year.

Table IV shows the number of persons over ten years of age and the per cent distribution in each general division of occupations



TABLE III

NUMBER OF PERSONS TEN YEARS OF AGE AND OVER IN ILLINOIS IN EACH GENERAL DIVISION OF OCCUPATIONS,  
BY SEX, 1870-1920\*

OCCUPATION	1920		1910		1900		1890		1880		1870	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Agriculture, forestry, and animal hus- bandry.....	371,237	9,468	438,995	12,294	450,614	12,167	418,626	12,906	433,796	2,575	375,407	1,034
Extraction of minerals	90,528	116	67,708	65								
Manufacturing and mechanical indus- tries.....	753,458	122,542	644,396	110,034	405,319	76,231	291,040†	53,056†	177,471	28,099	124,112	9,109
Transportation.....	201,205	19,156	183,927	10,309	346,144	50,902	227,246	19,458	125,328	3,044	79,876	546
Trade.....	290,437	57,367	241,319	43,250								
Public service (not elsewhere classified)	50,041	1,186	27,402	653	†	†	†	†				
Professional service..	80,988	65,653	65,152	50,032	63,812	32,509	41,176	21,946	157,084		72,383	
Domestic and personal service.....	89,807	125,404	89,499	143,315	243,505	122,837	175,161	92,944				
Clerical occupations..	159,099	140,046	107,024	61,404	§	§	§	§	§	§	§	§

\* From *United States Census Reports*.

† Approximated from census classifications.

‡ Included under "Professional Service."

§ Included under "Trade and Transportation."

## LABOR LEGISLATION IN ILLINOIS

for 1910 and 1920, the only years for which comparable data for this classification are available.

TABLE IV

NUMBER AND PER CENT DISTRIBUTION OF PERSONS TEN YEARS OF AGE  
AND OVER IN EACH GENERAL DIVISION OF OCCUPATIONS IN  
ILLINOIS, 1910 AND 1920\*

OCCUPATION	1910		1920	
	Number	Per Cent	Number	Per Cent
Total . . . . .	2,296,778	100.0	2,627,738	100.0
Agriculture, forestry, and animal husbandry . . . . .	451,289	19.6	380,705	14.5
Extraction of minerals . . . . .	67,773	3.0	90,644	3.4
Manufacturing and mechanical industries . . . . .	754,430	32.8	876,000	33.3
Transportation . . . . .	194,236	8.5	220,361	8.4
Trade . . . . .	284,569	12.4	347,804	13.2
Public service (not elsewhere classified) . . . . .	28,055	1.2	51,227	1.9
Professional . . . . .	115,184	5.0	146,641	5.6
Domestic and personal service . . . . .	232,814	10.1	215,211	8.2
Clerical . . . . .	168,428	7.3	299,145	11.4

\* *United States Census Reports.*

TABLE V

PER CENT OF POPULATION OF ILLINOIS LIVING IN PLACES  
OF SPECIFIED SIZE, 1890-1920\*

YEAR	PER CENT OF TOTAL POPULATION LIVING IN PLACES OF					
	100,000 or More (Chicago)	25,000-100,000	10,000-25,000	5,000-10,000	2,500-5,000	Rural Districts
1890 . . . . .	28.7	1.9	7.7	2.6	3.8	55.3
1900 . . . . .	35.2	4.5	6.6	3.8	4.1	45.7
1910 . . . . .	38.8	7.7	5.9	5.1	4.3	38.3
1920 . . . . .	41.7	10.8	6.3	5.0	4.2	32.1

\* *United States Census Reports.*

## URBANIZATION OF POPULATION

Not only has there been a great increase in the number of persons in the mining, manufacturing, transportation, trade, and cleri-

cal groups, but there has also been a growing concentration of population in cities, especially in Chicago, although cities with a population of 25,000 to 100,000 have been making rapid gains. It may be seen from Table V that in 1920 Chicago contained almost 42 per cent<sup>1</sup> of the total population of the state as against 28.7 per cent in 1890. This fact alone means a great concentration of the wage-earning groups under conditions which give rise to a multitude of problems. The percentage of total population in the rural districts decreased from 55.3 in 1890 to 32.1 in 1920. The percentage living in cities of 2,500 to 25,000 has varied but little in this period. Concentration of population is thus taking place in the larger cities of the state. The concentration of industry and of the labor movement in Chicago, together with almost complete unionization of an important industrial group down-state, namely, the coal miners, have resulted in a greater impetus toward labor legislation in Illinois than has existed in most other states.

<sup>1</sup> This percentage would be still larger if the population of the entire metropolitan area were included.

## CHAPTER II

### LEGALITY OF LABOR UNIONS AND THEIR METHODS

Most labor unions attempt to secure the enactment of laws designed to protect the lives, health, and economic condition of their members. In Illinois their efforts have resulted in the passage of a great body of law dealing with almost every phase of these problems. In spite of the great importance of laws of this type, however, workers value even more highly laws which enable them to form associations and bargain collectively with their employers, for it is through collective bargaining with their employers that they consider themselves best able to secure good wages and improvements in working conditions. Both the legislature and the courts, however, have imposed severe restrictions upon collective action by the workers, and consequently have provoked an intense feeling of distrust and resentment among the laboring classes, who have acquired a burning desire to rid themselves of these limitations. During the period beginning with the year 1863 and extending until the Pullman strike of 1894 these restrictions were imposed for the most part by formal acts of the General Assembly; but since 1894 there have been added to these restrictions a vast and rapidly expanding exercise of control by the courts. In the earlier period the workers endeavored to secure the repeal of hostile acts of the General Assembly, but in recent years they have endeavored most strenuously to convince the General Assembly that laws should be passed to curb this "usurpation" of power by the courts. At the present time, the law governing labor unions is a curious and almost baffling mixture of statutory and court-made law. No serious efforts have been made to codify the law.

#### THE RIGHT TO ORGANIZE

In England, until the repeal of the Combination Acts in 1824 and 1825, statutory provisions severely restricted collective action by workingmen. "Collective action itself, whatever its purpose, was



objectionable; the strike was a crime, and the trade union was an unlawful association."<sup>1</sup> Although the common-law doctrine of conspiracy had developed to the point that it might have been applied to labor organizations, the presence of these statutory restrictions rendered such action unnecessary. In the half-century following the repeal of the Combination Acts, the status of labor combinations under the common law remained a matter of great uncertainty. Certain judges had indeed held that a mere agreement to strike with the object of increasing wages was restraint of trade and conspiracy, but this cannot be said to have constituted a well-established and uncontested doctrine.

The application of the English common law to labor was thus clouded with great uncertainty at the time the First Illinois General Assembly, meeting in 1819, declared that the English common law and all acts of Parliament in aid thereof or to supply the defects thereof should be in full force and effect in Illinois.<sup>2</sup> It is impossible at this time to determine whether or not labor organizations, had any existed, would have been lawful under this statute; but in view of the tendency toward a liberal doctrine in other states in the thirties, which culminated in 1842 in the famous case of *Commonwealth v. Hunt*, severe restrictions might not have been imposed. It appears that the question did not come before the Illinois courts until comparatively recent times. In the meantime, the General Assembly passed a number of laws relating to the problem of conspiracy and the right to organize.

#### LASALLE BLACK LAW

Following a series of strikes in the coal mines at LaSalle, Illinois, the General Assembly in 1863 passed what was later known as the LaSalle Black Law.<sup>3</sup> This law contained four sections, two of which were general in their application and two which applied only to the

<sup>1</sup> Mason, *Organized Labor and the Law* (1925), p. 237.      <sup>2</sup> *Laws of 1819*, p. 3.

<sup>3</sup> *Laws of 1863*, p. 70. It was probably called the LaSalle Black Law by the workers because they believed it placed disabilities upon the miners of LaSalle (and other workers as well) comparable with those placed by the Illinois Black Laws of 1853 upon negro immigrants.

coal-mining industry. Section 1 prohibited any person from seeking to prevent, by threat, intimidation, or otherwise,<sup>1</sup> any other person from working at any lawful business on any terms that he might see fit. Violation of this section was punishable by a fine not exceeding \$100. Section 2 prohibited any two or more persons from combining for the purpose of depriving the owner or possessor of property of its lawful use and management or of any person or persons from being employed by<sup>2</sup> such owner or possessor of property. Section 3 prohibited any person from entering the coal banks of another after notice that such entry was prohibited, without first having obtained the owner's permission. Section 4 prohibited any person from entering the coal banks of another with the intention of committing injury thereto, or by means of threats, intimidations, or other riotous or unlawful proceedings, to cause or induce any person employed therein to leave such employment. The penalty for violation of sections 2 or 3 was a fine not exceeding \$500, or six months' imprisonment in the county jail. Persons violating section 4 were subject to both fine and imprisonment. A number of persons were convicted and punished for violating this law, but by 1880 it had become practically a dead letter.<sup>3</sup> Organized labor, however, was not content to have the law merely unenforced, but strove, without success, to secure its repeal.<sup>4</sup>

<sup>1</sup> An act passed in 1873 (*Laws of 1873*, p. 93) substituted the phrase "unlawful interference" for the word "otherwise."

<sup>2</sup> The act cited in the previous note added the words "or obtaining employment from." It also changed the phrase "or other means" to read "or any unlawful means."

<sup>3</sup> Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), p. 9. Also *Report of the Committee of the (U.S.) Senate upon the Relations between Labor and Capital*, I (1885), 582-83, containing testimony of Mr. P. H. McLogan, president of the Chicago Trades Assembly.

It appears that the LaSalle Black Law is now occasionally used in prosecuting workmen. In 1913, the county court of Adams County imposed a fine of \$50 upon a workman for violating its provisions. The Appellate Court, however, held that the acts complained of did not constitute a punishable offense under the law and reversed the lower court's decision. See *People v. Young*, 188 Ill. App. 208 (1914).

<sup>4</sup> Repeal of conspiracy laws was a legislative aim of the Chicago Trade Council in 1877 (*Centennial History of Illinois*, IV, 449), and repeal of the LaSalle Black Law

## OBSTRUCTION OF RAILWAY TRAFFIC

Labor troubles in the period of unemployment and hard times following the panic of 1873 were the occasion for passing further restrictive laws. In 1877 the business of almost the whole country was brought to a standstill by strikes and riots. "The railway trains, and machine shops and factories in Chicago, Peoria, Galesburg, Decatur, and East St. Louis were in the hands of the mob, as well as the mines at Braidwood, LaSalle, and some other places."<sup>1</sup> Troops were sent to all of these places for the purpose of maintaining order.

A law passed in 1877<sup>2</sup> was intended to prevent obstruction of railway traffic in particular, but also applied to other business operations. Section 1 of this act prohibited any locomotive engineer, in furtherance of any combination or agreement, from wilfully and maliciously abandoning his locomotive at any point other than its regular destination. Sections 2 and 3 prohibited any person or combination of persons from wilfully and maliciously impeding or obstructing, by any act or by means of intimidation, the regular operation and conduct of the business of any railroad company or any other business operations in Illinois. The penalty for violation of section 1 consisted of a fine of \$20 to \$100, in addition to imprisonment in the county jail for from twenty to ninety days. The same penalty was imposed for violations of sections 2 and 3 except that the maximum fine was \$200 instead of \$100.<sup>3</sup>

## ARMED WORKMEN LAW OF 1879

When the above-mentioned labor troubles arose, and the police and the militia began to accede to the demands of newspapers and

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was one of the planks of the Illinois State Labor Convention and its successors for a number of years beginning with its organization in 1884. See E. Staley, *History of the Illinois State Federation of Labor*.

<sup>1</sup> From Governor S. M. Cullom's Biennial Message to the 1879 General Assembly, in *House Journal*, 1879, pp. 17-18.

<sup>2</sup> *Laws of 1877*, p. 167.

<sup>3</sup> Other laws have also been passed from time to time dealing with destruction of railroad property or obstruction of the regular operation of trains.



public speakers that violent means be used in breaking up labor meetings and that labor leaders be arrested and punished, many workingmen believed that their rights were being invaded. Since they saw no possibility of obtaining justice in any other way, some groups of workingmen formed military organizations for their own protection. They were reputed to have said that in case trouble arose again they would be prepared for the "hordes of lickspittles," that is, the militia and police.<sup>1</sup> This movement among the workingmen so alarmed the employers of the state that they demanded the enactment of a law suppressing these organizations.<sup>2</sup> A bill was accordingly introduced into the 1879 General Assembly whose purposes were to reorganize the state militia and to prohibit any body of men other than the state militia or the United States troops from forming a military organization or drilling or parading with arms in Illinois without license from the governor. While the bill was being considered by the legislature, several of these workingmen's military bodies held a parade in Chicago, apparently for the purpose of expressing their contempt for the bill. From the tone of the debate in the House of Representatives, this parade caused many representatives to change their opinions,<sup>3</sup> and the bill was passed by both houses.

While the suppression of unauthorized bodies of armed men whose purpose it was to defy the authority of the state was a wholesome project, it did not accomplish its purpose. The law did not suppress the Lehr- und Wehrverein of Chicago, and other similar organizations,<sup>4</sup> and there is no doubt that it "produced bitterness and intensified discontent."<sup>5</sup>

A renewal of labor troubles in the eighties was the occasion for intervention by courts of equity in labor disputes through the use of the injunction and for the enactment of additional restrictive

<sup>1</sup> *Chicago Tribune*, February 19, 1879.

<sup>2</sup> Mrs. Lucy E. Parsons, *Life of Albert R. Parsons* (1889), pp. 16-17.

<sup>3</sup> *Chicago Tribune*, April 24, 1879.

<sup>4</sup> Among other organizations affected by the bill were the Jaeger Verein, the Bohemian Sharpshooters, and the Labor Guards (*Chicago Tribune*, April 21, 1879).

<sup>5</sup> R. T. Ely, *The Labor Movement in America* (1905), p. 327.

laws by the General Assembly. In the early eighties the Knights of Labor and other labor organizations enjoyed a very rapid growth in numbers and in power, which reached its zenith about the time of the Haymarket Riot in 1886. In these years, strikes, lockouts, and boycotts, accompanied by considerable violence, agitated the whole country. In the year 1886, there occurred perhaps the first use of the injunction in labor disputes in Illinois. At least three such injunctions were issued in Chicago in that year. It seems, however, that they did not attract much attention, and that the working-classes had no inkling of the significance of their use. The chief concern of the workers lay in the enactment of two laws by the General Assembly, namely, the Merritt Conspiracy Law and the Cole Anti-boycott Law,<sup>1</sup> both passed in 1887. These two laws, coupled with the LaSalle Black Law, for several years constituted labor's foremost grievance in Illinois.

#### MERRITT CONSPIRACY LAW

The Merritt Conspiracy Law was a direct result of the Haymarket Riot. For several years after the unfortunate and apparently uncalled-for attack by the police upon a peaceable gathering in Haymarket Square, Chicago, during which attack a bomb was thrown by some unknown person, there was an almost universal demand by the newspapers, assented to by a majority of the people of the state, for harsh measures, not only against the accused anarchists but also against all labor organizations. During these years, as well as for several years previous to 1886, members of labor unions, socialists and anarchists were indiscriminately lumped together by the newspapers and conservative public speakers, and the public generally was not aware that differences of vital importance might exist. There is no doubt that many trade unionists of the time were socialists, or that a few were anarchists; but it is probable that most members of labor organizations, then as now, were not interested nearly so much in changing the form of our economic organization as in questions of wages, hours, and working conditions within the existing scheme. Be that as it may, some of

<sup>1</sup> See below, p. 34.



the accused anarchists forfeited their lives, and the members of labor unions were punished by abridgment of their freedom of action.

The Merritt Conspiracy Bill was named after Representative Merritt, of Marion County, who introduced it into the 1887 General Assembly. It was a bill "to further define conspiracy and to punish the same, and crimes committed in pursuance thereof, and relating to the rule of evidence therein." Section 1 declared that if two or more persons should conspire to do an unlawful act, which was itself dangerous to human life, person, or property or whose accomplishment would probably require the use of force or violence, and thus endanger human life, person, or property, every party to the conspiracy should be held liable for whatever offense any of the other conspirators might commit in furtherance of the common design. Section 2 provided that every person who, by public utterance, or by writing, publishing, or circulating any written or printed matter should advise, encourage, aid, abet, or incite other persons to revolution, riot, violence, or resistance to law, should be deemed guilty of having conspired with persons actually committing the crime and should be punished accordingly. In order to prove guilt under this section, the prosecution was not required to show that the speaking was heard or that the written or printed matter aforesaid was read or communicated to the person actually committing the crime, if such speaking, writing, or publishing was shown to have been done in a public manner in Illinois. According to section 3, all persons connected with a conspiracy were to be deemed guilty of the crime committed by either or any of them, even though the time and place for committing it had not been definitely agreed upon by the conspirators, but was left to the exigencies of the time or the judgment of the various conspirators. In order to establish conspiracy under the law, section 4 provided that it should not be necessary to prove that the parties on trial had ever come together and entered into any agreement to accomplish the unlawful purpose, but that it would be sufficient proof if it appeared that the parties were actually working in concert, provided their acts knowingly tended to the same unlawful result.

According to the *Chicago Tribune*, the Merritt Conspiracy Bill was designed to place on the statute-books the principles governing conspiracy as laid down by Judge Joseph E. Gary in the anarchists' trial.<sup>1</sup> The *Tribune* was accordingly heartily in favor of the bill. Organized labor, however, believed that Judge Gary had extended the common-law doctrine of conspiracy far beyond its proper scope. In the anarchist trial the prosecution had been unable to show any direct connection between the incendiary utterances of the anarchists who were on trial, and the throwing of the bomb in Haymarket Square. It was not proved that the accused men had thrown it, or that the person who did throw it had ever read or heard any of their utterances. The court held, however, that it was not necessary to show such direct connection. The mere fact that they had urged violence was sufficient to condemn them to death, regardless of whether or not the bomb had been thrown and the policemen killed as a result of their utterances. This was the phase of the Merritt Bill which organized labor opposed most strenuously. One labor paper stated that the object of the bill was "to hold for murder every member of a labor organization, if in an attempt to secure remunerative wages a man is killed by anybody, whether a member of the union or whether a tool of the employer."<sup>2</sup> Representative Bailey offered an amendment to eliminate this feature of the bill, but it was voted down. Senator Hill opposed the bill because it was an encroachment upon the right of free speech and free press and contrary to the fundamental principles of the constitution. Senator Streeter asserted that the bill was invented by Chicago capitalists and was being supported by them "to further grind down the horny-handed sons of toil."<sup>3</sup> In spite of this determined opposition, however, the bill passed both houses by large majorities and became a law.<sup>4</sup>

Organized labor of the state, led by the Illinois State Federation of Labor, immediately began an agitation for the repeal of this Merritt Law. Even the newspapers, who had been so ardent in

<sup>1</sup> *Chicago Tribune*, May 5, 1887.

<sup>2</sup> *The Knights of Labor*, April 16, 1887, p. 8.

<sup>3</sup> *Chicago Times*, June 10, 1887.

<sup>4</sup> *Laws of 1887*, p. 168.

their advocacy of the bill, became afraid lest some of their own statements might bring them within the scope of the act. In 1891 a bill (S.B. No. 77) to repeal the law was unfavorably reported by the Senate Committee on Judicial Department and Apportionment, but the report was not concurred in by the Senate. Consideration of the bill was twice postponed, and efforts were made to amend it in both the Senate and the House, but it was finally passed.<sup>1</sup> Although the Merritt Conspiracy Law was "so infamous that no one . . . ever had the temerity to enforce it,"<sup>2</sup> organized labor believed that it had won a great victory in securing its repeal.<sup>3</sup>

#### RIGHT TO BELONG TO LABOR UNIONS

Workingmen in the eighties had still another grievance which was involved in the insecure position of their organizations as such, rather than in disabilities imposed upon them by law. For a number of years, employers had been compelling their individual workmen, as a condition of employment, to sign "iron-clad contracts" by which the employee agreed to withdraw from any labor organization of which he was a member and to refrain from joining any such organization in the future. In some cases employers compelled their workmen to sign these contracts by threats to blacklist. Power given the employer to withhold a portion of the employee's wages often formed an additional bludgeon to compel observance of the contract.<sup>4</sup> These "contracts" were similar to the "yellow dog" contracts of the present day. After considerable agitation, organized labor secured the passage of a bill in 1893 guaranteeing the right of employees to belong to labor organizations. This act<sup>5</sup> declared it to be unlawful for any employer to prevent or attempt to prevent his employees from forming, joining, and belonging to any lawful labor organization. Any person discharging or threatening to dis-

<sup>1</sup> *Laws of 1891*, p. 100.

<sup>2</sup> *The Rights of Labor*, May 2, 1891.

<sup>3</sup> The decision of the Illinois Supreme Court upholding Judge Gary's ruling in the anarchists' case still remained to govern the doctrine of conspiracy. See *Spies v. People*, 122 Ill. 1 (1887).

<sup>4</sup> Illinois State Federation of Labor, *Proceedings of the 1890 Convention*, p. 12.

<sup>5</sup> *Laws of 1893*, p. 98.



charge any employee because of his connection with a lawful labor organization was subject to a fine not exceeding \$100, or to imprisonment for not more than six months, or to both fine and imprisonment in the discretion of the court.

This remedy was of short duration, however, for the Illinois Supreme Court declared the act unconstitutional in 1900 because it violated the provision of the state and federal constitutions which guaranteed that no person should be deprived of life, liberty, or property without due process of law, and because it was special legislation in that it attempted to make the employer criminally liable for discharging union employees whereas he was not liable if he discharged a non-union employee, thus drawing an unwarranted distinction between union and non-union men.<sup>1</sup>

Organized labor has tried several times since this decision was rendered to secure the enactment of a similar bill, but thus far has been unsuccessful. In 1925 and 1927 bills were introduced into the General Assembly declaring void, as contrary to public policy, provisions in contracts of employment whereby either party obligated himself not to become a member of a labor union or of an organization of employers, or in such event to withdraw from such contracts. None of these bills was passed.<sup>2</sup> It will be observed that an attempt was made to draft them in such manner as to evade the constitutional difficulties met by the 1893 act.<sup>3</sup>

#### LABOR ORGANIZATIONS EXEMPTED FROM APPLICATION OF ANTI-TRUST LAWS

In 1891, Illinois followed the example of the federal government by enacting an anti-trust law<sup>4</sup> which prohibited corporations, partnerships, individuals, or any association of persons from entering

<sup>1</sup> *Gillespie v. People*, 188 Ill. 176 (1900).

<sup>2</sup> Among the organizations bitterly opposing these bills was the Associated Employers of Illinois.

<sup>3</sup> It should be noted in this connection that these "yellow dog" contracts are not enforceable at law, in the sense of enforcing specific performance of the labor contract, but that equity courts will enjoin union organizers or other union officers from advising workmen to disregard them.

<sup>4</sup> *Laws of 1891*, p. 206.

into any pool, trust, or agreement to regulate prices or to fix or limit the quantity of any article manufactured, mined, produced, or sold in Illinois. As originally enacted, this law might have been construed as prohibiting trade agreements between labor unions and employers. In order to remedy this matter, an amendment was passed in 1897<sup>1</sup> which permitted joint arrangements of any sort in the mining, manufacture, or production of articles of merchandise in Illinois, the cost of which was mainly made up of wages, if the principal object or effect of such arrangement was to maintain or increase wages.

The constitutionality of this amendment was attacked in the courts by Mr. Levy Mayer, attorney for the Illinois Manufacturers' Association and various corporations, and the Illinois Supreme Court in the case of *People v. Butler Street Foundry*, 201 Ill. 236 (1903), declared it unconstitutional as being an unlawful discrimination in favor of the persons exempted from the operation of the law. In his testimony before the United States Industrial Commission,<sup>2</sup> Mayer complained that while the statute as amended permitted workmen to form an association to deprive the employers of labor of the right of employing it, and to deprive the owner of labor of his right to sell, it prevented employers, hard pressed by competition, from combining to avoid such competition.

#### TRADE UNION LABEL

In the eighties, after certain trade unions, particularly the cigar-makers, adopted a distinctive label which was placed on goods manufactured by their members, unscrupulous manufacturers who did not employ union labor began the practice of placing counterfeit union labels on their products in order to profit by the prestige which products bearing the union label carry with certain classes of purchasers. By authorizing the use of their label, trade unions hope to extend the market for goods manufactured by their members, and thus strengthen the position of the union. People generally desire to purchase goods manufactured under good sani-

<sup>1</sup> *Laws of 1897*, p. 298.

<sup>2</sup> *Report of the Industrial Commission*, VIII (1901), 74.



tary conditions by non-sweated labor, and the union label is supposed to be a guaranty that such conditions exist. When manufacturers place counterfeit labels on their goods, however, the public is deceived and the union's position is weakened. The cigar-makers had been vigorously pushing their blue label for several years and greatly resented such practices. They accordingly began an agitation in several states for a law making it a criminal offense to place counterfeit union labels on goods, and in this they were supported by other unions. In Illinois they succeeded in securing the enactment of such a law in 1891.

When the legislature met in 1891, the cigar-makers' unions commissioned Henry J. Vaupel to lobby for their union label bill. He induced Senator Bogardus and Representative Lyman to introduce it in the Senate and in the House, respectively. Owing to the long senatorial contest in the House, and the non-appointment of House committees, no progress was made by the House bill. The Senate bill, however, was passed, and when it reached the House it was referred to the Committee on Labor and Industrial Affairs which had finally been appointed and to which the House bill had been referred. It so happened that at this particular time the Senate was Republican and the House Democratic. Both parties wanted credit for passing the bill so that they might pose as friends of organized labor. Some of the House Democrats wanted to retard the Senate bill and pass the House bill, but Mr. Vaupel succeeded in getting the Senate bill reported, and it was soon passed and approved by the Governor.<sup>1</sup>

The Union Label Law<sup>2</sup> provided that whenever any association or union of workingmen adopted any label, trade-mark, or form of advertisement announcing that goods bearing it were manufactured by them, it should be unlawful for any person or corporation to counterfeit or imitate such label. Copies of all such labels were to be filed with the secretary of state, who was to grant a certificate of record which was declared to be sufficient proof that the label had

<sup>1</sup> The story of the passage of the bill may be found in *Cigar Makers' Official Journal*, June, 1891.

<sup>2</sup> *Laws of 1891*, p. 202.

been legally adopted. Unions might proceed by injunction against persons using counterfeits of their labels, and might recover damages from the offenders. Unions were given control over the use and display of their labels. Persons counterfeiting or imitating such labels, or using them with knowledge that they were not genuine, and persons using genuine labels without authorization by the union or using them in an unauthorized manner, were punishable by a fine of from \$100 to \$200, or by imprisonment in the county jail for a period of from three months to one year, or by both fine and imprisonment.

In 1895, sections 1 and 2 of the law were strengthened by making the language used more specific, and section 3 was strengthened by making it unlawful for anyone to use fraud in filing a label with the secretary of state. Persons using fraudulent means in filing such labels were to be fined not exceeding \$200 or imprisoned not exceeding one year, or both; and, in addition, damages might be recovered by a party injured.<sup>1</sup>

The constitutionality of the Union Label Law was tested in 1892, when John Lynch, a member of the Cigar Makers' International Union of America, asked for an injunction against Isidore and Herman Cohn of Chicago, restraining them from using counterfeit labels on non-union cigars. The defense claimed that the statute was unconstitutional, and that the wording of the cigar-makers' label was libelous and therefore not entitled to protection.<sup>2</sup> The court held against the defendants on both points and granted the injunction.<sup>3</sup> The case was carried to the Illinois Supreme Court where the law was upheld in the case of *Cohn v. People*, 149 Ill. 486 (1894).<sup>4</sup>

<sup>1</sup> *Laws of 1895*, p. 319.

<sup>2</sup> The label said: "This certifies that the cigars contained in this box have been made by a first-class workman, a member of the Cigar Makers' International Union of America, an organization opposed to inferior, rat-shop, coolie, prison or filthy tenement-house workmanship. Therefore we recommend these cigars to all smokers throughout the world. All infringements upon this label will be punished according to law [signed: A. STRASSER, Pres. C.M.I.U. of America]."

<sup>3</sup> *Cigar Makers Official Journal*, February, 1892.

<sup>4</sup> The union label, however, cannot be required by the state or its subdivisions on goods purchased for state use. In the case of *Holden v. City of Alton*, 179 Ill. 318

## INCORPORATION OF LABOR UNIONS

The weakness of labor organizations in the eighties and nineties led some of them to attempt to secure the enactment of a law providing for incorporation of the trade unions of the state. The legislative committee of the Illinois State Labor Association in 1886 demanded such a law, but this demand does not appear to have been stressed to the same degree as other demands.<sup>1</sup> Mr. David Ross, secretary of the Illinois Bureau of Labor Statistics, in his testimony before the United States Industrial Commission in 1899,<sup>2</sup> stated that while labor leaders had paid insufficient attention to the matter, he favored the incorporation of trade unions since it would give them standing in the courts, which was very important, and at the same time would encourage arbitration of disputes. When industrial disputes arose, employers often refused to arbitrate since the employees represented a miscellaneous mob wherein no responsibility could be located. He believed that incorporation would improve discipline and control of members of labor unions.

No law was passed, however, providing for incorporation of labor unions.<sup>3</sup> In the meantime, the opinion of organized labor has changed. Labor unions at the present time do not want to be incorporated. They oppose incorporation as strenuously as they oppose compulsory arbitration, since it would mean abridgment of

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(1899), an ordinance requiring all contracts for city printing to be awarded to union shops only, or to such as were able to show the union label, was held to be illegal, as tending to create monopoly and impose an additional burden on taxpayers, who are entitled under the law to have such contracts let to the lowest bidder.

Likewise an ordinance requiring the employment of union labor, only, upon public improvements, is unconstitutional, in that it is an unjust discrimination between classes of citizens which restricts competition and increases the cost of the work. *Fiske v. People*, 188 Ill. 207 (1900).

<sup>1</sup> E. Staley, *op. cit.*      <sup>2</sup> *Report of the Industrial Commission*, XII (1901), 180.

<sup>3</sup> About the middle of the past century numerous laws were passed providing for the incorporation of benevolent associations. Thus among the session laws of 1838-39 is an act (p. 14) incorporating the Mechanic Association and Galena Beneficial Society whose purpose was to produce harmony and good fellowship among its members, promote their common interest, disseminate useful knowledge, and relieve and give succor to its afflicted and distressed members. A few such mechanics' associations were incorporated in the forties, and a number of others in the sixties.



their powers of action and increase their civil liability.<sup>1</sup> They fear that in case of strikes their funds would be tied up by injunctions. A union without funds can do very little in the way of attack or defense. They believe that incorporation would be detrimental to their interests since they are convinced that the usual bias of the courts in favor of the employer would prevent them from obtaining a square deal in any judicial contest. They see the inequality with which the laws rest upon them and the employer. If unions were incorporated, contracts could and would be enforced against them; whereas incorporated unions could not enforce contracts against the employer by means of legal proceedings any better than could unincorporated unions. In any case, labor contracts should not be enforceable at law the same as property contracts, since they must be capable of modification with changing circumstances.

#### SUABILITY LAWS

At the present time the subject of incorporation takes a different form. In 1921 and 1923, Senator John D. Turnbaugh introduced bills on behalf of the League for Industrial Rights, formerly the American Anti-boycott Association, which provided that all unincorporated and voluntary associations of seven or more persons might be sued in the name of the association.<sup>2</sup> The bill was designed so to increase the liability of persons joining voluntary associations, such as trade unions, that they would be compelled to seek refuge by incorporating under state charters in order to secure the privilege of limited individual liability. Organized labor fought the bill not so much because of its effect upon organized labor<sup>3</sup> as from its

<sup>1</sup> The latter point may be questioned in view of recent court decisions.

<sup>2</sup> From the time of its organization in 1902, the League for Industrial Rights has advocated laws making labor unions pecuniarily responsible. In 1919, it began a systematic propaganda which led to the introduction and passage of such laws in several states. It asserts that "power must be accompanied by responsibility." It believes that when labor unions instigate strikes, they should be held responsible for all accompanying lawlessness which they might reasonably prevent, and that when they enter into collective contracts they should underwrite and guarantee those contracts (*Law and Labor*, I [June, 1919], 65).

<sup>3</sup> In the case of *Chicago Typographical Union No. 16 v. Barnes*, 134 Ill. App. 11 (1907), the court held that a voluntary association, such as a trade union, might be

effect upon the principle of voluntary association in general. If such a bill were enacted into law, voluntary associations of all kinds, even ladies' aid societies and societies of high-school boys and girls, would be suable as such, and be forced to take refuge in incorporation. This would be a blow at the principle of voluntary association, which plays such an important rôle in modern civilized communities. Organized labor has thus far succeeded in defeating bills of this nature.

#### ATTITUDE OF THE COURTS TOWARD LABOR ORGANIZATIONS<sup>1</sup>

As stated earlier in this chapter, the courts of Illinois did not pass upon the question of the legality of labor combinations as such until comparatively recent times. From the time this question arose, however, the courts have always held that workingmen have the legal right to form labor organizations. Although the purposes of labor organizations and the means used to put these purposes into effect have many times fallen under the ban of the courts, the abstract right to organize is fully recognized. Mere combination has never been held to be an illegal conspiracy by the courts of Illinois, although in some cases both in England and in the United States combination per se was held to be illegal. In a recent case the Illinois Supreme Court said: "The court believes that the greater weight of authority holds that what one individual may lawfully do a combination of individuals has the same right to do, provided they have no unlawful purpose in view."<sup>2</sup> Again:

Labor unions have long since been recognized by the courts of this country as a legitimate part of the industrial system of this nation. The ultimate purpose of such organization is, through combination to advance the interests of the members by obtaining for them adequate compensation

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sued as such, without joinder of its individual members, if its membership were large. This statement is somewhat misleading inasmuch as an unincorporated union is not itself suable, but certain individuals are named in the suit as representing all the other members. See pp. 17-18 of this decision.

<sup>1</sup> The decisions of federal courts are not discussed inasmuch as they do not constitute Illinois labor law and affect the practice of Illinois courts only indirectly.

<sup>2</sup> *Kemp v. Division No. 241, Amalgamated Association of Street and Electric Railway Employees*, 255 Ill. 213 (223) (1912).



for their labor, and it has been frequently decided by the American courts that the fact that this purpose is sought to be obtained through combination or concerted action of employees does not render the means unlawful.<sup>1</sup>

Numerous other decisions contain similar statements.<sup>2</sup>

Once a labor union is organized, however, and attempts to make its purposes effective, complications arise. The right of laboring people to organize is paralleled by a similar right of employers. A labor organization brought about by the exercise on the part of its members of the right of every citizen to pursue his calling as he thinks best is limited in what it can do by the existence of the same right in each and every other citizen.<sup>3</sup>

"It is an absolute legal right of every person to carry on any legitimate business and to make and enforce all lawful contracts in the prosecution of such business."<sup>4</sup>

"Both employees and employers, as individuals and as groups, have similar and equal rights of freedom to contract as they choose, and of protection from unlawful interference with such rights, by the other."<sup>5</sup>

"No persons, individually or by combination, have the right to directly or indirectly interfere or disturb another in his lawful business or occupation, or to threaten to do so, for the sake of compelling him to do some act which, in his judgment, his own interest does not require."<sup>6</sup>

<sup>1</sup> *Ibid.*, pp. 220-21.

<sup>2</sup> *Franklin Union No. 4 v. People*, 220 Ill. 355 (377) (1906); *Wilson v. Hey*, 232 Ill. 389 (396) (1908); *A. R. Barnes & Co. v. Chicago Typographical Union No. 16*, 232 Ill. 424 (436) (1908); *Anderson & Lind Mfg. Co. v. Carpenters' District Council*, 308 Ill. 488 (1923).

<sup>3</sup> *Kemp v. Division No. 241*, 153 Ill. App. 344 (377) (1910), reversed on other grounds in 255 Ill. 213 (1912).

<sup>4</sup> *Anderson & Lind Mfg. Co. v. Carpenters' District Council*, *supra*, quotation on p. 495.

<sup>5</sup> *Carpenters' Union v. Citizens' Committee*, 244 Ill. App. 540 (555-56) (1927). It should be noted that a corporation is an individual in the eyes of the law, and in so far as it is acting alone cannot be prosecuted under the common-law doctrine of conspiracy. Its employees, however, when acting in combination with one another, may readily be brought within the conspiracy doctrine.

<sup>6</sup> *Doremus v. Hennessy*, 176 Ill. 608 (614) (1898). It should be pointed out that to obstruct a person in his business is not unlawful unless one invades his rights. Competition may result in the complete destruction of another's business, but is not thereby necessarily unlawful.

It is obvious that in the concrete case these rights must come into conflict. In labor disputes the rights of the union and its members, of the employer, of non-union men, and of other parties must be weighed by the courts.

In general it may be said that working people may organize to promote their common welfare by lawful means,<sup>1</sup> to obtain lawful benefits for themselves,<sup>2</sup> to secure improvement in the terms and conditions of labor, such as to maintain or secure advancement in wages, obtain shorter hours of employment, or attain any other legitimate object.<sup>3</sup> When, however, the immediate purpose of the combination is not to obtain lawful benefits for its members, but to injure another, the combination is unlawful.<sup>4</sup> "A good motive will not make an unlawful act lawful,"<sup>5</sup> but a malicious motive will make unlawful an act which is otherwise innocent.<sup>6</sup> A combination by a labor union and its members for the purpose of intentionally injuring the business of an employer of labor in order to compel him to accede to demands of the union which he has a legal right to refuse is unlawful.<sup>7</sup> The benefits sought must be near at hand, and not remote; for when the benefit sought is remote, the courts do not look beyond the immediate injury of employers and other workmen.<sup>8</sup> A combination entered into by members of a stenographic association whereby the prices of reporting legal proceedings by shorthand were raised above what they would have been under unrestricted competition was once declared to be contrary to public

<sup>1</sup> *Wilson v. Hey, supra.*

<sup>2</sup> *Barnes v. Chicago Typographical Union, supra.*

<sup>3</sup> *Kemp v. Division No. 241, 255 Ill. 213 (1912).*

<sup>4</sup> The Illinois courts have tended to consider the question of motives as the controlling factor. See Illinois Legislative Reference Bureau, *Constitutional Convention Bulletins*, No. 14 (1920), p. 1157; and H. B. Myers, *Policing of Industry.*

<sup>5</sup> *Anderson & Lind v. Carpenters' District Council, supra*, quotation on p. 496.

<sup>6</sup> See *Doremus v. Hennessy, supra.* In this case the court said: "It is clear that it is unlawful and actionable for one man, from unlawful motives, to interfere with another's trade . . . by preventing others from working for him or causing them to leave his employ by . . . persuasion, with an intent to inflict an injury which causes loss" (p. 614).

<sup>7</sup> *Barnes v. Typographical Union, supra.*

<sup>8</sup> *Ibid.*

policy.<sup>1</sup> One important case defines conspiracy as "an agreement or combination formed between two or more persons to do an unlawful act or to do a lawful act by unlawful means. The *gravamen* of the offense is the combination, and a combination may amount to a conspiracy although its object be to do an act which, if done by an individual, would not be an unlawful act."<sup>2</sup> From this it appears that if "the *gravamen* of the offense is the combination," proof of combination is all that is needed to prove conspiracy at common law. This is indeed true in the case of criminal conspiracies. Labor cases, as civil conspiracies, come under the formal definition which takes into account the purpose of the combination and the means used to put purposes into effect. This appears to be the generally accepted test of conspiracy in these cases.<sup>3</sup>

<sup>1</sup> *More v. Bennett*, 140 Ill. 69 (1892). This case is said to be "obsolete" now. The courts at present might reach the same conclusion as in this case through the use of different principles.

<sup>2</sup> *Franklin Union No. 4 v. People*, *supra*, quotation on pp. 376-7.

<sup>3</sup> Bills have been introduced into the General Assembly to modify the Illinois law concerning conspiracy. In 1909, Representative Chipfield introduced a bill (H.B. No. 116) which provided in substance that when a conspiracy was consummated, (1) the conspirators should be punished only for the consummated act, and not for the conspiracy; (2) the punishment for conspiracy should not be greater than the punishment for the contemplated crime; and (3) no conspiracy should be prosecuted or punished unless some overt act had been done in furtherance thereof.

Regarding this bill, Professor Ernst Freund said: "The last provision adds nothing to the common law, the two former provisions are innovations. They sound fair, and as a matter of fact, the common law of conspiracy is in the particulars indicated open to strong criticism, and as an original proposition, would perhaps find few defenders.

"But the main application of the law of conspiracy is to strikes and boycotts, and the measure was regarded as one calculated to procure immunity or more lenient treatment for illegal methods of strike and boycott. It was therefore natural that the bill should not have been judged on its abstract merits." See Illinois Bureau of Labor Statistics, *Labor Legislation in the 46th General Assembly*, 1909, pp. 25-26.

This bill was vigorously opposed by the Illinois Manufacturers' Association, and by certain newspapers, such as the *Chicago Daily News* (*Fuel*, XII, No. 23 [April 6, 1909], 630; *Union Labor Advocate*, April, 1909, p. 16). It passed the House but was not reported out by the Senate Committee on Judiciary. In recent years the Associated Employers of Illinois has joined other organizations in their opposition to this type of bill.

Other attempts have been made to modify the conspiracy law in such manner



Once a conspiracy is proved, each conspirator becomes liable for all the acts and declarations of every other conspirator in furtherance of the common purpose.<sup>1</sup>

The Appellate Court in 1911 held that if a labor union, by threat of strike, forces an employer to discharge an employee, its individual members (the union not being incorporated) are liable for the resulting damage.<sup>2</sup> This decision was, however, probably overruled by the Kemp case, decided by the Supreme Court in 1912. But "a voluntary association may, as an exception to the general rule, be made defendant in equity where its members are very numerous . . . and where those who sue or defend do so for the benefit of the whole and may fairly be presumed to represent the

<sup>1</sup> *Christensen v. People*, 114 Ill. App. 40 (73) (1904).

<sup>2</sup> *Sutton v. Workmeister*, 164 Ill. App. 105 (1911).

as to make it conform to the principles embodied in the British Trades Disputes Act of 1906. A bill was introduced by Senator Cuthbertson (S.B. No. 127) in 1925 to amend the conspiracy law by providing that an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workers should not be indictable as a conspiracy if such act committed by one person would not be punishable as an offense. It was tabled on June 9 by a general resolution killing all bills then in committee.

In 1919, the Illinois Legislature, in common with other state legislatures, passed a criminal syndicalism law for the purpose of reaching the "red" propaganda that was prevalent at the time. While this law does not apply to labor unions as such, it may be applied to certain of the more radical unions which advocate making revolutionary changes in our economic organization. This law (*Laws of 1919*, p. 420) made it unlawful for anyone openly to advocate or to publish, sell, or distribute any literature advocating the reformation or overthrow, by violence or any other unlawful means, of the present representative form of government of the United States and the several states. It was declared unlawful for anyone to organize or become a member or attend a meeting of any society whose object was to advocate such action. It was also declared unlawful for the owner of any building knowingly to permit the same to be used for such meeting or as headquarters for such organization. It was made unlawful to display emblems symbolizing a purpose to overthrow by force or violence or by physical injury to person or property the present form of government. Violations of the law were punishable by imprisonment in the penitentiary for a period of from one to ten years, except that the punishment for renting a building or attending a meeting of such organization was a fine of \$500 to \$1,000, or imprisonment in the county jail for a period of from six months to one year, or both fine and imprisonment.

Under this law, thirty-nine members of the Communist labor party were in-

rights and interests of the whole.”<sup>1</sup> Furthermore, a labor union cannot escape liability for the acts of its members which are the direct result of a strike which it has inaugurated on the ground that its officers advised the members to be orderly and obey the law. A labor union which inaugurates a strike, establishes strikers’ headquarters, raises funds, appoints visiting committees, and otherwise directs the strike is bound, in law, to know of the acts of violence by its members naturally flowing from its course in conducting the strike.<sup>2</sup>

<sup>1</sup> *Chicago Typographical Union No. 16 v. Barnes*, *supra*, at pp. 17-18.

<sup>2</sup> *Franklin Union No. 4 v. People*, *supra*. In 1913, a bill was favorably reported to take away from the courts the right to assess a fine against trade unions, where a member of the union violated an injunction. The bill was a result of the Supreme Court ruling in this case (see *House Debates*, II [1913], 2846-47).

dicted for conspiracy by the March, 1920, Grand Jury of the Criminal Court of Cook County. Twenty were arrested, tried, and convicted. Eighteen were sentenced, and the judgment affirmed and the law held constitutional by the Illinois Supreme Court in October, 1922, in the case of *People v. Lloyd*, 304 Ill. 23.

In order to prevent the offering of bribes to trade-union officials to influence them to prevent or cause a strike, and to prevent the solicitation of bribes by trade-union officials for the same purpose, the Chicago Federation of Labor drafted a bill and instructed their legislative committee to have it introduced into the 1909 General Assembly. Mr. Luke Grant drafted such a bill for the Chicago Federation of Labor, patterned after the New York law then in effect. It proposed to punish trade-union officials for accepting bribes; but much to Mr. Grant’s disgust, the Chicago Federation of Labor altered the bill to make the punishment rest upon the person paying the bribe.

In 1923, the Building Investigation Commission created by the 1921 General Assembly prepared and introduced a bill to make extortion by one man a crime, as under the then-existing law, extortion by one man was not a crime. This bill was introduced by the Commission after sensational disclosures of graft and corruption in the building industry of Chicago had indicated its need (see *Report of the Illinois Building Investigation Commission* [1923], p. 8). It was passed by the General Assembly in the form recommended by the Commission (*Laws of 1923*, p. 401). The law declared it to be unlawful for any person representing an organization of workmen to extort or attempt to extort money or other property from an employer, property-owner, or lessee, as a consideration for the withholding, withdrawing, settling, or terminating of any demand, claim, dispute, or controversy relating to the employment of such workmen or relating to the handling, delivery, or use of materials or supplies. Violations of the act are punishable by imprisonment in the penitentiary for from one to five years.



## THE RIGHT TO STRIKE

Some of the statutes discussed in the preceding pages prohibited strikes under certain circumstances. The LaSalle Black Law of 1863 and the laws prohibiting the obstruction of railway traffic were laws of this type, although the question of the legality of certain labor combinations is also bound up with them. We must turn to the courts, however, for a more complete development of the law respecting strikes.

The Illinois Supreme Court has defined the strike as a cessation of work by a body of workmen as a means of enforcing compliance with a demand made on their employer.<sup>1</sup> While it is clear that workmen, individually or in combination, have the legal right to quit their employment with or without cause, without rendering themselves amenable to the charge of conspiracy,<sup>2</sup> this does not mean that every strike is lawful.<sup>3</sup> Workmen may, however, lawfully strike in order to maintain wages, secure advancement in wages, or secure shorter hours of employment.<sup>4</sup> They may also strike when the primary purpose is not to injure others but to advance their own interests,<sup>5</sup> that is to say, the element of intent is important.<sup>6</sup> The sympathetic strike has not been explicitly differentiated from the boycott, and as such has not yet been passed upon by the Illinois courts. In some cases it is in all probability unlawful, because of its malicious intent, because it causes breach of contract, or because it is an improper method of accomplishing a

<sup>1</sup> *Kemp v. Division No. 241, supra*. In citing this case, the Supreme Court's decision is the one referred to unless otherwise stated.

<sup>2</sup> *Franklin Union No. 4 v. People, supra*, p. 377.

<sup>3</sup> In no Illinois case has the strike itself been held unlawful.

<sup>4</sup> *Kemp v. Division No. 241, supra*.

<sup>5</sup> *People v. Seefeldt*, 310 Ill. 441 (445) (1923).

<sup>6</sup> With regard to the question of motives, the bias of the judge is the determining factor. An act which one judge considers non-malicious another may hold malicious. Some judges are able to see malice in almost everything done by workmen in furtherance of their cause, whereas others with a better appreciation of industrial problems are more liberal in this respect.

lawful object.<sup>1</sup> In others it would probably be held lawful, the determining factors being the closeness of relationship between the unions affected,<sup>2</sup> the court's appreciation of industrial problems, and the skill with which the cases were presented to the courts.

Whether workmen may lawfully strike to obtain or maintain the closed shop is not entirely clear inasmuch as the opinion of the courts has changed since the appearance of the first cases. In 1903, the Appellate Court said that "we are not to be understood as holding that a request to appellee to enter into an agreement to employ none but union men was in itself illegal."<sup>3</sup> In the following year, however, the same court in a case growing out of the same industrial dispute held that a union could not lawfully compel an employer to sign a contract, especially a closed-shop contract such as was involved in this case.<sup>4</sup> In 1905, the Illinois Supreme Court in an important case held that an attempt to compel an employer by threat of strike to sign an agreement to conduct his business by employing only members of labor unions is unlawful, such an agreement being violative of the legal rights of the employer and unjust

<sup>1</sup> Mr. Justice Carter in his specially concurring opinion in the Kemp case (p. 243) said: "By the weight of authority and in accord with sound public policy a sympathetic strike . . . must be held unlawful, as not within the immediate field of competition."

In the case of *Carpenters' Union v. Citizens' Committee*, *supra*, p. 591, the court said that certain "outside strikes where there was no complaint at all on the part of the carpenters involved were in the nature of sympathetic strikes, for which, in our opinion, there was no legal justification." The court characterized them as "an attack in the rear."

<sup>2</sup> That is to say, a strike of street railway employees in sympathy with striking bank clerks would probably be unlawful, whereas a strike of electrical workers in the aid of plumbers might be held lawful.

<sup>3</sup> *Christensen v. Kellogg Switchboard & Supply Co.*, 110 Ill. App. 61 (71) (1903).

<sup>4</sup> Contracts signed under duress are void. Also, Article I of the proposed agreement violated the employer's right of contract in that the employer was to employ only union men. The privilege of contracting is both a liberty and a property right. (*Christensen v. People*, *supra*, p. 69). This contract was also unlawful and void in that it would tend to create a monopoly in favor of union workmen, to the exclusion of non-union workmen (*ibid.*, p. 70).

and oppressive toward non-union employees.<sup>1</sup> The court also said:

The law is well settled that every person shall be protected in the right to enter into contracts or in refusing to do so, as he shall deem best for the advancement of his own interests, without interference by others. No person or combination of persons can legally, by direct or indirect means, obstruct or interfere with another in the conduct of his lawful business, and any attempt to compel any individual, firm, or corporation to execute an agreement to conduct his or its business through certain agencies or by a particular class of employees is not only unlawful and actionable, but is an interference with the exercise of the highest civil right.<sup>2</sup>

Three years later (1908) the Illinois Supreme Court held that a combination by members of a labor union to compel an employer to hire only union men, by preventing him from obtaining laborers to work for him, is an unjustifiable interference with the employer's right to conduct his business as he chooses and employ whom he pleases, and that an injunction will lie to prevent the doing of any acts, even the use of peaceable persuasion to prevent persons from remaining in his employ or seeking employment from him.<sup>3</sup>

In a case decided in 1912, the Illinois Supreme Court in a four to three decision followed a more liberal doctrine with regard to the closed shop. The case involved the granting of an injunction to prevent union employees from striking to obtain the discharge of non-union employees. It appeared that the primary object of the union was not to injure the non-union men, and that there was no

<sup>1</sup> *O'Brien v. People*, 216 Ill. 354 (373) (1905). This decision follows *Doremus v. Hennessy*, *supra*.

<sup>2</sup> *Ibid.*, pp. 371-72.

<sup>3</sup> *Barnes v. Typographical Union No. 16*, *supra*.

W. A. Martin, in his *Modern Law of Labor Unions* (1910), p. 45, says that "this decision necessarily implies the unlawfulness of the strike in aid of which the acts enjoined were perpetrated, because the right to use in aid of a lawful strike, peaceable persuasion, to induce others not bound by contract for a definite time to quit working for or not to enter the service of one against whom the strike is in operation is universally conceded. In order to sustain the conclusions reached [in this decision] it seems necessary to accept as sound law, the proposition that the motive for the strike for the purpose under consideration is necessarily malicious—that under no circumstances could just cause or excuse exist, a proposition which is unquestionably against the great weight of authority and not sustainable on principle."



actual malice toward them or an intent to commit a wrongful or harmful act against them. No threats of violence had been made. The issue was purely one of legality of the closed-shop strike. An abstract from Mr. Justice Cooke's opinion (concurred in by two other judges) will best indicate the court's position.

The proposed strike was not called for the direct purpose of securing better wages or shorter hours or to prevent a reduction of wages, any one of which would have been a proper object. The motive was more remote than that, but it was kindred to it. The purpose was to strengthen and preserve the organization itself. Without organization the workmen would be utterly unable to make a successful effort to maintain or increase their wages or to enforce such demands as have been held to be proper. The following view expressed by Mr. Chief Justice Holmes in his dissenting opinion in *Plant v. Woods*, 176 Mass. 492, in discussing facts similar to those here involved, is in our opinion a correct statement of the law and is applicable here: "That purpose was not directly concerned with wages. It was one degree more remote. The immediate object and motive was to strengthen the defendants' society as a preliminary and means to enable it to make a better fight on questions of wages or other matters of clashing interests. I differ from my brethren in thinking that the threats were as lawful for this preliminary purpose as for the final one to which strengthening the union was a means. I think that unity of organization is necessary to make the contest of labor effectual, and that societies of laborers lawfully may employ in their preparation the means which they might use in the final contest."

If it is proper for workmen to organize themselves into such combinations as labor unions, it must necessarily follow that it is proper for them to adopt any proper means to preserve that organization. If the securing of the closed shop is deemed by the members of a labor union of the utmost importance and necessary for the preservation of their organization, through which, alone, they have been enabled to secure better wages and better working conditions, and if to secure that is the primary object of the threat to strike, even though in the successful prosecution of the object of the combination injury may result incidentally to non-union men through the loss of their positions, that object does not become unlawful. . . . It was only incumbent upon them to act in a peaceful and lawful manner in carrying out their plans.<sup>1</sup>

<sup>1</sup> *Kemp v. Division No. 241*, *supra*, pp. 226-27. This opinion together with Mr. Justice Carter's specially concurring opinion constituted the decision of the court.



That this case established the legality of the closed-shop strike in Illinois has been, however, seriously questioned. The three dissenting judges said:

We do not understand that the views of three justices as expressed in the opinion of Mr. Justice Cooke nor our own opinion as to the legal questions involved in this case establishes the law of the State, but that the concurrence of a fourth justice in the conclusion that the judgment of the Appellate Court shall be reversed and the decree of the circuit court affirmed disposes of this case.<sup>1</sup>

Other writers have expressed the same opinion:

In view of differences in opinion among the members of the court (decided 4 to 3), the decision cannot be regarded as establishing, as the law of Illinois, that it is lawful to combine to interfere with another's employment for the sole reason that he refuses to become or continue a member of a labor organization.<sup>2</sup>

Professor Henry Schofield contends that all of the opinion of Mr. Justice Cooke and all except the last part of Mr. Justice Carter's specially concurring opinion are technically *obiter*.<sup>3</sup>

Later court decisions indicate that the Kemp decision did not change the law. In the case of *Boston Store v. Retail Clerks*, 216 Ill. 428 (437) (1920), the court said: "We do not so read the Kemp case as to reach the conclusion that it materially modifies the law, as declared in [the] Barnes case."<sup>4</sup> The Illinois Supreme Court in

<sup>1</sup> *Kemp v. Division No. 241*, *supra*, p. 256.

<sup>2</sup> *Labatt, Master and Servant*, VII (1913), 8239.

<sup>3</sup> *Illinois Law Review*, VIII, 132. This contention may be sound from a technical standpoint, but it should be pointed out that the practice of the courts (common in cases such as this) of discussing at length the historical and philosophical foundation of the decision they are about to make is as important as the decision itself. An outstanding attorney in Illinois labor cases has told the writer that in his opinion the Kemp case is good law and that the closed-shop strike is lawful in Illinois.

<sup>4</sup> It should be noted that in the Kemp decision Mr. Justice Cooke attempted to distinguish between that case and the O'Brien, Franklin Union No. 4, and the Barnes cases. "While the matters involved in [the O'Brien and Franklin Union cases] grew out of acts following a strike of union employees, the question of the right to strike was not involved in either case. . . . The only questions involved in those cases was whether or not the injunction had been violated and what punishment should be inflicted . . . [In the Barnes case] the injunction sought was against

the case of *Carlson v. Carpenter Contractors' Association*, 305 Ill. 331 (338) (1922), closed its opinion by stating that in the Kemp case three separate opinions were filed, and since less than a majority concurred in each opinion, the only question judicially determined in that case was that the demurrer to the bill of complaint was properly sustained by the Circuit Court.<sup>1</sup>

The Appellate Court in 1927 said that union employees may make every lawful effort to establish and maintain a "closed shop" and to that end may decline to work for any employer who refuses to agree to that policy . . . on the other hand employers may make every lawful effort to establish and maintain an "open shop" and to that end have the right to refuse to employ anybody unless they agree to work on that basis. The fact that either of these policies may tend to weaken the other, in no way affects the mutual rights of employees and employers to maintain that policy or status which they prefer, by any lawful means. Both employees and employers, as individuals and as groups, have similar and equal rights of freedom to contract as they choose, and of protection from unlawful interference with such rights, by the other.<sup>2</sup>

#### BOYCOTTS: COLE ANTI-BOYCOTT LAW

Boycotts, as well as strikes, were first governed in Illinois by statutory rather than by the common law. In fact, boycott cases did not reach the courts until recent years. The Cole Anti-boycott Law of 1887, which was "perhaps more odious to organized labor men than even the Merritt conspiracy bill,"<sup>3</sup> was passed during the reactionary period following the Haymarket Riot. For some years previous to 1887, organized labor made effective use of the boycott.

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acts similar to those enjoined in the O'Brien case and the Franklin Union case, and when read in the light of the facts it is not in point and is in no manner decisive of the questions here presented" (*Kemp v. Division No. 241*, *supra*, pp. 233-34).

<sup>1</sup> One writer contends that the Carlson case "clearly reverses the conclusions of the majority of the court in the [Kemp case] and reestablishes what we believe to have been the law of this state prior to that decision" (*Illinois Law Review*, XVII, 534).

<sup>2</sup> *Carpenters' Union v. Citizens' Committee*, *supra*, pp. 555-56. It is clear, however, that while workmen may "decline to work" for any employer who refuses to agree to the union closed shop, their right to strike to compel an employer to operate such a shop is open to question. See also note 5, p. 24.

<sup>3</sup> *Chicago Times*, January 30, 1888.

In numerous cases results were achieved by its use that could not have been attained by other means. The Illinois Bureau of Labor Statistics in 1886 investigated fifty boycotts, half of which had been conducted by the Knights of Labor and half by various trade unions. In six of these cases no result had been reached at the time the report was made, and in thirteen cases the results were not stated. In the remaining thirty-one cases, the success achieved was striking: fourteen were completely successful, sixteen partly successful, and only one was an entire failure. One conspicuous success was a boycott conducted against prison-made boots and shoes. Practically all labor organizations were involved in this boycott, and the prison contractors were forced to make favorable terms with their representatives.<sup>1</sup> The boycott was not always wisely used, however, and in many localities the follies, excesses, and wrongs committed under its name aroused strong public sentiment against it. The employers, of course, were very much opposed to its use, although they used the blacklist, a weapon paralleling the boycott, very extensively. The reaction resulting from the Hay-market Riot provided an opportune time for them to secure the enactment of a law curbing its use. A bill (H.B. No. 488) was accordingly introduced by Representative Cole, of Randolph, making boycotts conspiracy under the law. This bill was passed by even larger majorities than the Merritt conspiracy bill. It provided<sup>2</sup> that if two or more persons conspired together, or the officers or executive committee of any society or organization uttered or issued any circular or edict instructing its members to institute a boycott or blacklist, they should be deemed guilty of conspiracy and be imprisoned in the penitentiary not exceeding five years, or fined not exceeding \$2,000, or both.

Although the law includes blacklists as well as boycotts within its scope, the former were probably included merely to insure its

<sup>1</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 446-53.

<sup>2</sup> *Laws of 1887*, p. 167. It amended a law already on the statute books (Section 46 of chap. 38, *Hurd's Revised Statutes*) which punished for conspiracy persons fraudulently or maliciously injuring the person, character, business or property of another, obtaining money by false pretenses, etc.



constitutionality.<sup>1</sup> The law was intended to apply exclusively to labor unions. The *Chicago Times* commended the General Assembly for passing this law, which it stated was aimed particularly against the commission of the crime of boycotting "by the officers or orders of strike societies." "The importance of the measure appears in the fact that the crime of conspiracy is much more frequently committed by the officers, orders, instigation, or incitement of strike societies than by any other persons." The article went on to explain that boycotting was a "foreign offense," that it was brought into this country "with offensive foreignism." The *Times* believed that five years' imprisonment in the state prison was not too severe a punishment "for the functionaries of a strike society that order a boycott, or incite, advise, or encourage the commission of that crime"; and predicted that the imposition of this sentence "would be apt to have a wholesome effect in modifying the views of their confederates on its supposed utility as a means of effecting the object of a strike."<sup>2</sup>

Until the attention of labor unions became engrossed by the menace of the injunction, the Cole Anti-boycott Law was one of their chief objects of condemnation. The parts of the law that were "extremely obnoxious to organized labor" were those subjecting the officers or executive committee of unions to punishment for con-

<sup>1</sup> The blacklist is a weapon used by employers and parallels the workers' boycott—it is a concerted refusal by employers to employ a given workman or workmen of a given class (without regard to particular individuals) because of their union activity or for any other reason. The personal blacklist (that of a particular workman) is the kind usually meant when the term "blacklist" is used.

Numerous bills have come before the General Assembly having for their purpose the prevention of blacklisting, punishment of employers who use this weapon, and redress of workmen who are victims of it. Although the Cole Anti-boycott Law was supposed to cover blacklists as well as boycotts, in practically every legislative session from its enactment in 1887 until 1901, organized labor attempted to secure the passage of bills which would reach this practice in an effective way. Such bills have also been introduced within the last decade, but none has been enacted.

<sup>2</sup> *Chicago Times*, June 16, 1887. That this prediction was to some extent true was borne out by a statement made by the Illinois State Federation of Labor in 1888: "The strike and the boycott have failed. The ballot is our only salvation." From E. Staley, *op. cit.*



spiracy because of their activity in instituting boycotts, and those increasing the penalty from three years' imprisonment or \$1,000 fine to five years' imprisonment or \$2,000 fine or both fine and imprisonment.<sup>1</sup> Bills have been introduced at intervals since the Cole Anti-boycott Law went into effect, designed to modify the law so as to legalize boycotts in Illinois, but no such bill has been passed by the General Assembly.

While boycotts are definitely prohibited by the Cole Anti-boycott Law, we may well give some opinions of Illinois courts upon the subject. It appears that the primary boycott, involving only the parties directly in controversy, may be lawful in the eyes of the Illinois Appellate and the Illinois Supreme Court. In the case of *Wilson v. Hey, supra*, decided in 1908, the court said: "It is not wrong for members of a union to cease patronizing anyone when they regard it for their interest to do so."<sup>2</sup> In an earlier case involving a trade boycott, it was held that one or more persons might not only refuse to trade with another, but also that it was not unlawful interference with the trade of another to advise people to deal with his competitor.<sup>3</sup>

The secondary boycott, however, is illegal. In a recent case, the Illinois Appellate Court held that a secondary boycott is an unlawful purpose or object.<sup>4</sup> The Supreme Court has, furthermore, declared illegal the issuance of an "unfair list," in a case where a union appointed a committee to inform business men that the firm in question was unfair to organized labor. Although no threats had been used in the effort to cause these persons to cease patronizing the firm, the court held that if the notices given or the things done had the natural effect of exciting reasonable fear or apprehension

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the Seventh Annual Session* (1890), p. 10.

<sup>2</sup> Two dissenting judges in the same case said: "The law is that two or more individuals may agree among themselves that they will not trade or deal with a certain person, and may give notice to others that they have made such an agreement" (p. 399). The disagreement was not over this point, but was over the question whether the union had used violence or threats of violence upon third persons.

<sup>3</sup> *Ulery v. Chicago Livestock Exchange*, 54 Ill. App. 233 (1894).

<sup>4</sup> *Brims v. People*, 226 Ill. App. 505 (517) (1922).

that their business would be injured unless they did cease patronizing the firm, the fact that no direct threats had been used was immaterial. The court stated that "the words 'unfair list' were a euphemism for a boycott, and, of course, it does not change the nature of an unlawful thing by substituting an inoffensive for an offensive name."<sup>1</sup> In 1916, the Appellate Court upheld the conclusion of a lower court that the distribution of publications declaring the appellant "unfair" was not illegal.<sup>2</sup> Not considering the question of violence or threats, boycotts are illegal if they injure the business or property of another,<sup>3</sup> if they interfere with the lawful conduct of business,<sup>4</sup> or if they interfere with the free use of one's capital or labor.<sup>5</sup> Strikes are illegal when called to enforce a boycott.<sup>6</sup> The calling of peaceable strikes against another's customers to prevent the use of materials manufactured by him, amounts to "threats, coercion and intimidation," and is illegal.<sup>7</sup>

Note on legality of the blacklist. In one case a blacklist, unaccompanied by an absolute refusal to grant a clearance card, although the clear-

<sup>1</sup> *Wilson v. Hey*, *supra*, p. 396.

<sup>2</sup> *Henrici v. Alexander*, 198 Ill. App. 568 (1916). See also *Illinois Malleable Iron Co. v. Michalek*, 279 Ill. 221 (1917). In considering these questions, all the facts involved in a given case must be considered. It should be remembered that the presence of one unlawful element may result in the entire affair being held unlawful. The mere publication of an unfair list where no threats are involved is probably lawful. Here again we must consider the bias of the court.

<sup>3</sup> *Doremus v. Hennessy*, *supra*; *Piano and Organ Workers' Union v. Piano and Organ Supply Co.*, 124 Ill. App. 353 (1906); *Barnes v. Chicago Typographical Union*, *supra*.

<sup>4</sup> *Anderson & Lind Mfg. Co. v. Carpenters' District Council*, *supra*; *London Guarantee and Accident Co. v. Horn*, 101 Ill. App. 355 (1902); *Purington v. Hinchliff*, 219 Ill. 159 (1905).

<sup>5</sup> *Doremus v. Hennessy*, *supra*; *London Guarantee and Accident v. Horn*, *supra*.

<sup>6</sup> *Brims v. People*, *supra*; *O'Brien v. People*, *supra*; *Mears Slayton Lbr. Co. v. District Council of Chicago of United Brotherhood of Carpenters and Joiners of America*, 156 Ill. App. 327 (1910).

<sup>7</sup> *Brims v. People*, *supra*; *Anderson & Lind Mfg. Co. v. Carpenters' District Council*, *supra*. See above, note 2. These are not good cases since the mere refusal to use non-union material was not the entire matter before the court. If this had been the only matter involved, the courts would probably have held it lawful.

ance card issued would not enable the employee to obtain employment, was held to be legal (*McDonald v. Illinois Central R. Co.* 187 Ill. 529 [1900]). In a recent case (1922) an agreement to blacklist carpenters was held to be an unlawful act. Where carpenter contractors and employers have entered into an agreement with dealers in building material not to furnish any material to union men or to those employing union labor, a union laborer who is thereby prevented from working for an employer who is willing to hire him, or an employer or individual who is thereby prevented from carrying on the lawful improvement of his property, is entitled to an action for damages if he can prove loss or injury. *Carlson v. Carpenter Contractors' Association*, *supra*, page 337.

#### PICKETING

In most cases a strike cannot be brought to a successful conclusion by a body of workmen unless they are able in some way or other to obstruct the employer's access to the labor market. If the employer is able to hire competent new men without interference of the men on strike, the strike will very soon be broken. Workmen have therefore resorted to picketing the employer's factory, workshop, or other place of business as the most effective way to prevent him from bringing in new employees and to warn or otherwise prevent prospective employees from entering upon a contract of employment with him. Also in the case of certain local boycotts, picketing has been of some value to employees in their effort to prevent prospective customers from patronizing the person against whom a grievance exists.

The opinion of the Illinois courts with respect to picketing changed in the course of a few years early in the present century. The legality of picketing has turned upon the problem of whether intimidation or violence is inherent—whether there is such a thing as peaceful picketing.<sup>1</sup> Picketing accompanied by the use of open threats of bodily harm, abusive epithets, force, violence, and intimidation, has always been unlawful. In earlier years, however,

<sup>1</sup> Argument and persuasion may or may not be lawful. In *Barnes v. Typographical Union*, *supra*, p. 436, the court said "it must be conceded that argument and persuasion are lawful if not directed to the accomplishment of an illegal and unlawful purpose." They also must not assume the nature of coercion or intimidation. No Appellate or Supreme Court decision has enjoined persuasion to get people to quit work where nothing but persuasion was involved.



peaceful picketing was apparently lawful.<sup>1</sup> The Appellate Court in 1902 stated that "workmen may use the streets and highways in a manner not inconsistent with public travel, for the purpose of entreaty, inducement and peaceable persuasion in good faith, and a patrol or picket may not necessarily imply force or a threat of bodily harm"; but held that an injunction might issue to prevent the use of threats, abusive epithets, intimidation, or a congregation of persons in such number or in such manner or with such a show of force as was calculated to intimidate a reasonable or prudent man.<sup>2</sup> In the following year the same court said:

It is, we think, true that picketing or patrolling, when the terms are used to designate mere watching or being in the street, should not be enjoined. The terms themselves are of military origin and apply to acts customary in time of war. Nevertheless there may doubtless be picketing and patrolling which are not unlawful. But the picketing described in the bill before us is not of that character. It is, as we have said, accompanied with the use of force and violence, and it is the kind of picketing and patrolling described in the bill of complaint which is enjoined.<sup>3</sup>

Soon after these decisions were rendered, however, the opinion of the courts changed. In 1904, it was held that the very presence of a large number of pickets, with the avowed purpose of preventing an employer's workmen from remaining in his employ and requiring those seeking employment with him to desist therefrom, was itself intimidation. The decision also quoted with approval *Union Pacific Railway Co. v. Ruef*, 120 Fed. 102 (107), which held that the mere fact that shops are picketed can only be intended to intimidate. The fact that a line of pickets is immediately in front of the shops, or a few blocks away, is a difference in degree only.<sup>4</sup> In 1905, the Illinois Appellate Court held that there could be no such thing as peaceful picketing.

<sup>1</sup> Even peaceful picketing was unlawful under the LaSalle Black Law of 1863. The amendment of 1873, however, did not outlaw peaceful picketing, although picketing that was violent, intimidating or of the nature of "unlawful interference" was unlawful. See above, p. 10.

<sup>2</sup> *Beaton v. Tarrant*, 102 Ill. App. 124 (129) (1902).

<sup>3</sup> *Christensen v. Kellogg Switchboard and Supply Co.*, *supra*, p. 75.

<sup>4</sup> *Christensen v. People*, *supra*, p. 65.



It is idle to talk of picketing for lawful persuasive purposes. Men do not form picket lines for the purpose of conversation and lawful persuasion. . . . In imagination and in theory a peaceful picket line may be possible, but in fact a picket line is never peaceful. It is always a formation of actual warfare and quite inconsistent with everything not related to force and violence. Its use is a form of unlawful coercion.<sup>1</sup>

The Illinois Supreme Court in the same case held the same view concerning peaceful picketing; but a dissenting opinion, after calling attention to the fact that the only case prior to the present one in a court of appellate jurisdiction in Illinois where the question of persuasion was squarely before the court was that of *Beaton v. Tarrant*, quoted above, endeavored to draw a distinction between persuasion, as such, and wrongful acts which might accompany it. While it had been urged by the appellees that persuasion necessarily and inevitably led to disagreements, quarrels, force, violence, and general disorder, and should therefore be enjoined, the minority opinion said the question was not whether persuasion led to acts of lawlessness, but whether persuasion, in itself, was unlawful. It said that a man should not be enjoined from doing an act merely because that act might lead to the doing of some wrongful act.<sup>2</sup> In a decision rendered in 1908, the Supreme Court, again with a dissenting opinion, held that a peaceful picket line around a shop was unlawful.<sup>3</sup> By 1921 it was the well-established law in Illinois that

<sup>1</sup> *Franklin Union No. 4 v. People*, 121 Ill. App. 647 (665-66) (1905).

<sup>2</sup> *Franklin Union No. 4 v. People*, *supra* (the Supreme Court case), pp. 379-80, 387-88.

<sup>3</sup> *Barnes v. Chicago Typographical Union No. 16*, *supra*, pp. 435-36. The court in this decision attempted to remove the question of the lawfulness or unlawfulness of picketing from the bias of the judge. The court stated that there had been a few cases holding that picketing was not necessarily unlawful if the pickets were peaceful and well-behaved, but that if the watching and besetting of workmen were carried to such length as to constitute an annoyance to them or to the employer it became unlawful. "But manifestly that is not a safe rule and furnishes no fixed or certain standard of what is lawful or unlawful. Any picket line must result in annoyance both to the employer and the workmen, no matter what is said or done, and to say that the court is to determine by the degree of annoyance whether it shall be stopped or not would furnish no guide, but leave the question to the individual notions or bias of the particular judge. To picket the complainants' premises was in

there can be no such thing as peaceful picketing, and that the very act of picketing constitutes intimidation and is unlawful.<sup>1</sup>

Anti-strike and anti-picketing bills have been introduced into the General Assembly at various times even though the court-made law places severe disabilities upon striking and picketing. In 1911, a bill was introduced providing for a fine of from \$200 to \$2,000 upon anyone convicted of picketing. In 1921, Senator Turnbaugh introduced three bills on behalf of the League for Industrial Rights. One of these was an anti-picketing bill. Another was designed to prevent "unwarranted industrial warfare" which included all strikes of public employees; strikes involving demands for conditions in any way conflicting with terms of individual contracts or which might be held by any court to conflict with the terms of a trade agreement; strikes conflicting with the terms of any arbitration award; all strikes to enforce demands which, in the opinion of any judge, the employer had not had a reasonable time to consider; and all strikes by workers who would not receive direct benefit therefrom. The bill proposed to make it unlawful for anyone to induce any person to enter upon such prohibited strikes, to prohibit unions from taking a vote upon such questions, and to make it unlawful to pay strike benefits, to picket, to distribute printed matter, or in any way to aid anyone engaged in such a strike. Judges were authorized to enforce its provisions upon request of anyone who might claim to be threatened with loss as a result of such strike, and such persons were given the right to sue for damages. Neither of these bills passed. The third bill has already been discussed in connection with the subject of incorporation of labor unions.<sup>2</sup>

#### THE INJUNCTION

An injunction is a restraining order issued by an equity court prohibiting certain persons from doing or requiring them to do

itself an act of intimidation and an unwarrantable interference with their rights. Pickets were, in fact, guilty of actual intimidation and threats, but if they had not been, the complainants were entitled to be protected from the annoyance," p. 436.

<sup>1</sup> See *American Cigar Co. v. Berger*, 221 Ill. App. 299 (303) (1921), where this statement is made and where several of the above cases are cited in its support.

<sup>2</sup> See above, p. 22.

certain specified acts. They are presumably to be issued only to prevent some irreparable injury to property rights. An injury accompanying a strike or lockout may be irreparable because the parties committing it are pecuniarily irresponsible, or, if they are responsible, because they are so numerous that many damage suits would be required to recover the loss, or because it is impossible to establish the guilty parties. According to earlier injunction theory, injunctions should not be issued to prevent acts which are punishable as crimes. In the United States, however, they are issued to prevent criminal as well as other acts, not because the acts are criminal, but because the pecuniary loss accompanying the crime cannot be recovered through damage suits. Punishment for violation of an injunction is meted out in contempt proceedings by the court issuing it, and may be such fine and imprisonment as the court wishes to impose. There is no jury trial.

As was stated earlier in this chapter, injunctions were issued in Illinois in connection with labor disputes at least as early as 1886. The first injunction of this kind found by the writer was granted on March 26, 1886. On March 25 of that year, Charles J. Bruschke, of the firm of Bruschke and Ricke, furniture manufacturers, filed a bill in the Superior Court of Cook County praying for an injunction to restrain sixty-eight of their striking employees from parading up and down the street in front of their factory and from intimidating their workmen. The men on strike were demanding bi-weekly instead of tri-weekly pay days, recognition of their union, the closed shop, privilege of the union organizer to enter the factory and confer with the employees whenever he found it necessary, and re-employment of all the strikers. The bill filed by Bruschke stated that the defendants were attempting in an unlawful manner to rule or ruin his business and to prevent other workmen from being employed by him. They had threatened to blow up the factory with dynamite and had stood on the sidewalk of his factory and those leading to it, making threats against him and his business. They had forcibly prevented employees and those desiring employment from entering the factory, and had subjected such workmen to violence and insult. The strikers furthermore had threatened to



continue this line of action. The bill alleged that the defendants were not pecuniarily responsible and that damage suits would be useless. Bruschke stated that he had been unable to obtain sufficient police protection. He contended that although the defendants were liable to indictment, their action and threatened movements were such an invasion of property rights as to require the preventive process of the injunction, and that without such process a continuing and irreparable injury would be wrought, for which there was no adequate remedy at law.

On April 2, 1886, Judge Garnett heard the arguments of both sides regarding the question whether or not the injunction should be dissolved or made permanent. The attorney for Bruschke said the strikers had evaded service of the injunction in some cases. The only way service was got was by delivering a copy of the writ to their wives or mothers, or by posting it on telegraph poles and making note of the men who were seen reading it. The strikers continued to parade the street in front of the shop, and cajole and intimidate the non-union workmen; but it was almost impossible to identify the culprits, who escaped through the alleys when approached. They also changed the relays of men every two hours.<sup>1</sup> The attorneys for the strikers contended that the misdemeanors complained of were not such as were properly cognizable in a court of equity, and that the men had a constitutional right to walk up and down the street and to persuade non-union men to join them. Their right stopped, however, at the commission of overt acts. If such act was committed, it was a matter for the criminal court, not an equity court.

The attorney for Bruschke, on the other hand, contended that

<sup>1</sup> An interesting sidelight on the conduct of the strikers in this dispute is given by the following account from the *Chicago Times*, April 8, 1886. On April 6, a foreman of the company was set upon by a gang of strikers and badly banged up. Several hundred strikers were in the street. They threw rotten eggs and fruit at a deputy sheriff. The unlucky deputy stood it for two and one-half minutes single-handed, and armed only with a copy of Judge Garnett's injunction against the strikers. The crowd scattered when the police appeared two blocks away, "but the dauntless custodians of the peace succeeded in arresting three small boys without resistance."



equity did control the case. He said that persecution by the strikers was a nuisance, and fell just a little short of being criminal, but short enough to prevent an exercise of jurisdiction by the criminal court. The matters complained of also fell short of being such acts as were cognizable by common law, and were the very things which did come within the jurisdiction of a court of equity.<sup>1</sup>

Judge Garnett, in granting a permanent injunction in this case on May 20, 1886, justified his action in the following manner. While it was true that remedy by injunction could not be invoked simply to prevent the committing of criminal acts, courts of equity are not shorn of their jurisdiction by the criminal aspects of the act if the criminal design would necessarily extend to the irreparable injury of private property. In support of this doctrine he quoted *Minke v. Hofman*, 78 Ill. 450—a nuisance case. He followed the case of *Parker v. Winnipiscogee Co.*, 2 Black 545, where the court had said that a court of equity might interfere to prevent irreparable injury, oppressive and interminable litigation, or a multiplicity of suits, or where the injury was of such nature that it could not be adequately compensated at law, or was of such nature that from its continuance there would result a constantly recurring grievance which could not be prevented otherwise than by injunction. He cited Pomeroy's *Equity Jurisprudence*, section 271, where it was said that the preponderance of judicial authority favored equitable jurisdiction to restrain continuous trespasses and to restrain and remove private nuisances. The case which was stated to have more similarity to the case at bar than any other cited was that of *Springhead Spinning Company v. Riley*, 6 L.R.Eq. 551.<sup>2</sup> The court here held that it had jurisdiction to enjoin the posting of placards intending to prevent certain persons who wished to obtain employment from doing so, and to prevent men who had quit their employment from re-engaging with the complainant. These placards, and advertisements of similar character in newspapers, were part of a scheme whereby the defendants, by threats and intimidation, had

<sup>1</sup> An account of this hearing may be found in the *Chicago Times*, April 3, 1886.

<sup>2</sup> An English case of 1868 in which the first labor injunction ever issued was involved.

prevented persons from hiring themselves to complainants. Threats to publish similar placards and advertisements had been made. The complainants had been prevented from carrying on their business and were losing a great deal of money. The court held that while acts merely criminal would not be enjoined, still, if they did not stop at crime, but resulted in the destruction or deterioration of the value of property, it would interfere.<sup>1</sup>

Two other injunction cases of the year 1886 were found by the writer. On April 21, 1886, another injunction was issued by Judge Garnett enjoining seventy-six of the striking employees of the Lake Shore and Michigan Southern Railroad from interfering with the complainant's business and trains, from remaining or congregating on the premises of the railroad company or in the vicinity thereof, and from assaulting or intimidating or in any wise interfering with complainant's employees, from endeavoring to induce them to leave its service or to cease performing its work, or from endeavoring to induce persons to refrain from entering its employment, etc.<sup>2</sup> On May 29, 1886, the Northwestern Fertilizing Company secured an injunction restraining its employees who were on strike from acts of intimidation and violence.<sup>3</sup>

The injunction problem did not cause the labor movement much worry until after the famous Debs injunction was issued by a federal court in 1894, during the Pullman strike. The issuance of this injunction gave the cue to employers who at once began appealing to the courts for restraining orders whenever they became involved in a strike or boycott. The results obtained were sometimes effective and sometimes not, depending usually on the judge issuing them and on the vigor with which violators were punished for contempt. The injunction was not as effective as it might have been since the Illinois Supreme Court had not yet passed upon any of the many phases of the lawfulness of picketing, boycotting, the sympathetic strike, the closed shop, etc. As a result of this, the judge of the *nisi prius* court was at liberty to follow any precedent he wished. In

<sup>1</sup> The text of Judge Garnett's decision may be found in *Chicago Times*, May 21, 1886, and the *Chicago Legal News*, XVIII, 306.

<sup>2</sup> *Chicago Times*, April 23, 1886.

<sup>3</sup> *Ibid.*, May 30, 1886.

1901, it was stated that the rule seemed to be established that the only type of injunction that could be obtained with any degree of certainty was that whose purpose it was to prevent unlawful interference with the employer's business, leaving to future decisions in contempt proceedings the definition of what was not unlawful. It was further stated that the reason the employer did not go into court more frequently for relief from the unlawful demands of organized labor was the belief that by doing so he would get no relief or at least insufficient relief, one of the elements of insufficiency being the length of time required to get it.<sup>1</sup>

Soon after the year 1900, cases began to reach the Illinois Appellate Court and the Illinois Supreme Court, and it became apparent that a powerful weapon had been forged for use against organized labor. We shall now present the opinions of these higher courts relative to the use of the injunction in particular circumstances.

Injunctions may be issued against acts that are also punishable as crimes. "It is upon the ground of injury to property rights that the jurisdiction of equity to interfere by injunction rests. It has no jurisdiction in matters merely criminal or immoral. It will not interfere merely to prevent violations of law." But a "continuing injury to property or business may be enjoined, although it may also be punishable as a nuisance or other crime."<sup>2</sup> A conspiracy to ruin the business of an employer of labor by means of picketing, boycotting, etc., is unlawful, and the injunctive process of the court may be employed to defeat such conspiracy.<sup>3</sup> Injunctions against boycotts have been freely granted.<sup>4</sup> In one case, however, on a bill

<sup>1</sup> From testimony of Mr. James A. Miller, chairman of the Legal Committee, Building Contractors' Council, given on February 9, 1901, before the United States Industrial Commission. See *Report of the Industrial Commission*, VIII (1901), 519. See also Clarence Darrow's testimony in the same volume, pp. 66-73.

<sup>2</sup> *Christensen v. Kellogg Switchboard and Supply Co.*, *supra*, p. 73. In dealing with the injunction it will be necessary to mention again or quote passages that have been quoted or cited earlier in this chapter.

<sup>3</sup> *Mears Slayton Lbr. Co. v. District Council*, *supra*.

<sup>4</sup> *Hey v. Wi'son*, 128 Ill. App. 227 (1906); *Wilson v. Hey*, *supra*; *Barnes v. Chicago Typographical Union*, *supra*; *Piano and Organ Workers' International*



to enjoin defendants from printing or publishing any printed matter calling attention to the fact that complainant's business was unfair and not unionized or that a strike was on, the court held that the distribution of a publication purporting to give information regarding the strike and of printed matter stating that the complainant was unfair to organized labor was not illegal.<sup>1</sup>

Workers have the legal right, either singly or in a body, to quit their employment, with or without cause, whenever they see fit, without rendering themselves amenable to the charge of conspiracy; and the courts will not enjoin them from doing so even though leaving their employment involves a breach of contract.<sup>2</sup> In spite of this doctrine, injunctions have been issued in Illinois denying the right to strike.<sup>3</sup> An employer whose workmen have struck has an absolute legal right to contract with other laborers to fill their places;<sup>4</sup> therefore it follows that a combination by members of a union to compel an employer to hire only union men, by preventing him from obtaining laborers to work for him, is an unjustifiable interference with his right to conduct his business as he chooses and employ whom he pleases, and may be enjoined.<sup>5</sup> In a decision quoted above concerning the legality of a strike for the closed shop, the Illinois Supreme Court refused, by a divided vote, to uphold an injunction granted by a lower court (the Appellate Court) restraining union employees from striking to obtain the discharge of non-union employees.<sup>6</sup> In an earlier case an injunction was sustained which prohibited a union from attempting to force

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*Union v. Piano and Organ Supply Co., supra; Mears Slayton Lbr. Co. v. District Council, supra; Brims v. People, supra; Anderson & Lind Mfg. Co. v. Carpenters' District Council, supra.*

<sup>1</sup> *Henrici v. Alexander, supra.*

<sup>2</sup> *Franklin Union No. 4 v. People, supra, p. 377.*

<sup>3</sup> In *American District Telegraph Co. v. Electricians, No. B, 157349*, Circuit Court of Cook Co., Illinois (1928), a lower court granted an injunction against a strike. The case is to be appealed and the union's attorney believes the lower court will not be upheld on appeal.

<sup>4</sup> *Mathews v. People, 202 Ill. 389 (1903).*

<sup>5</sup> *Barnes v. Typographical Union, supra.*      <sup>6</sup> *Kemp v. Division No. 241, supra.*



an employer, against his will, to employ or discharge any person or persons whomsoever.<sup>1</sup>

As was previously stated, an early case<sup>2</sup> said that there might be such a thing as peaceful picketing and that an injunction would not issue to restrain workmen from picketing and using persuasion, provided they were done in a peaceable manner. The court held, however, that no harm could result from granting an injunction against the use of threats, abusive epithets, or intimidation, or to prevent workmen from congregating in such number or in such manner or with such a show of force as would intimidate a reasonable and prudent man. Very soon, however, the courts adopted the doctrine that there could be no such thing as peaceful picketing, that picketing in any form was intimidating and might be enjoined.<sup>3</sup> This doctrine has been consistently followed since that time. Even the use of peaceable persuasion to prevent persons from remaining in complainant's employ or seeking employment with him has been enjoined. Strikers may be enjoined from following workmen to their homes or other places; from calling upon them; from attempting by bribery, payment or promises of money, offers of transportation, or other rewards, to induce complainant's employees to leave their employment.<sup>4</sup> Strikers may be enjoined from molesting or intimidating the families of workmen.<sup>5</sup> Illinois courts have been unusually zealous in issuing injunctions against picketing.

Who may be included in an injunction? The earlier labor injunctions set forth the names of the individuals against whom the writ was issued, and service or knowledge of the writ was required before a person could be punished for its violation. Later, however, blanket injunctions prohibiting all persons whomsoever from doing any of the acts mentioned, and from doing any other act or thing in furtherance of the conspiracy set forth in the bill, were issued; and, in the opinion of organized labor, persons were unjustly and indiscriminately haled into court and punished for violating such

<sup>1</sup> *O'Brien v. People, supra.*

<sup>2</sup> *Beaton v. Tarrant, supra.*

<sup>3</sup> *Franklin Union No. 4 v. People, supra.*

<sup>4</sup> *Barnes v. Typographical Union, supra.*

<sup>5</sup> *Ibid.*

writs. This brings us to the attitude of organized labor toward the issuance of injunctions in labor disputes.

#### ATTITUDE OF ORGANIZED LABOR TOWARD THE LABOR INJUNCTION

Needless to say, organized labor opposes with all its resources the issuance of labor injunctions. Trade unionists have acquired a deep distrust of the courts and a profound hatred of certain judges who have been particularly free in granting injunctions, and whom they odiously term "injunction judges." Organized labor's objections to the injunction may be stated as follows:

1. The use of the injunction in industrial disputes constitutes government by judicial discretion or judicial conscience—government by men rather than government by law. It is entirely arbitrary. There is no definite law governing the issuance of injunctions, consequently the bias of the judge is the determining factor. Not only is their issuance purely arbitrary, but punishment for their violation is equally arbitrary. Under the rules governing equity procedure, a person violating an injunction is punished for contempt of court by the judge issuing it. A man is brought into court and must show why he should not be punished.<sup>1</sup> Punishment is by fine or imprisonment or both, according to the discretion of the court. Jury trial is denied in these contempt cases and workmen are thus denied this important safeguard of justice.

2. The use of the injunction with respect to persons and personal rights such as are involved in industrial disputes is fundamentally wrong. The concept of property has been widened by the courts to include many things of an intangible nature not formerly included within the concept. Among these things are labor itself, the right to do business, and "speculative expectancies" of similar nature.<sup>2</sup> As a result, the courts have in effect made workmen slaves

<sup>1</sup> Violation of an injunction in a labor case is civil contempt. Preponderance of the evidence is sufficient to convict, even though the act itself would be a crime. Proof beyond a reasonable doubt is necessary for conviction in criminal cases. Change of venue is permissible in Illinois, and must be granted if the application is properly made.

<sup>2</sup> The Illinois Supreme Court in the eighties and nineties laid the foundation for the extensive use of injunctions in Illinois labor disputes by identifying property

again. The right to quit work is frequently violated by injunctions in spite of the Thirteenth Amendment to the Constitution of the United States and the decision of the United States Supreme Court in the case of *Bailey v. Alabama*, 219 U.S. 219 (1910), which are supposed to outlaw involuntary servitude in this country. Labor sees in the injunction a systematic effort to nullify the Thirteenth Amendment, not so much with respect to the individual workman (who has a remedy in the writ of habeas corpus) as to workmen acting in combination. It takes away the right of association, thus leaving the individual workman helpless. The right to quit work, if worth anything at all, must be made effective. Injunctions take away its effectiveness by prohibiting the combined quitting of work by a group of workmen.<sup>1</sup>

3. Courts often issue injunctions which deny to workmen the right of free speech, free press, and free assembly—rights which are fundamental to American institutions. Workmen desire the same freedom of action while involved in an industrial dispute that they have when not involved in such a dispute.<sup>2</sup> Organized labor points out that whereas the personal rights of workmen are seriously curtailed by the courts during industrial disputes, those of the employer are never so curtailed.

4. Injunctions are used to enforce a law which does not rest equally upon both parties to an industrial dispute. Organized workmen want to establish their right to use peaceful persuasion in

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with the right to do business and to make contracts, and by overthrowing legislative acts which violated property rights as thus defined. Among the cases involved are *Millett v. People*, *Fraser v. People*, *Ramsey v. People*, and *Braceville Coal Co. v. People*. These cases are discussed in chap. v.

Professor Henry Schofield contends that the Supreme Court's laissez faire philosophy stripped the legislature of its power of regulating industrial relations and made necessary the extension of the injunction with its summary fines and imprisonments to industrial disputes. See *Illinois Law Review*, VIII (1913), 133.

<sup>1</sup> Labor does not complain against the use of injunctions in industrial disputes where protection to tangible property alone is involved.

<sup>2</sup> This of course does not mean that they desire the right to use violent means to further their purposes. Such methods are equally unlawful whether or not an industrial dispute is in progress.



inducing others to join with them in case of strike. They do not challenge the employer's legal right to persuade others to take their places in case of strike, but wish to have the right which corresponds to this right of the employer. They desire to establish a right to withdraw their patronage from anyone they wish, or to persuade others to do so. They point out that the employer may blacklist, in the sense of discharging or refusing to employ a man for no reason except his membership in a union. They want their right to pay strike benefits made clear. An employer may pay the railroad fares of strike-breakers from other cities, but labor unions have been enjoined from the corresponding practice. On the one hand, the courts through the use of injunctions deny to unions the right to protect their organizations when the employer attempts to destroy them; on the other hand, they deny workmen the right to organize when the employer declines to give his consent to organization.

5. Under the methods used in granting an injunction, the persons affected by it may know nothing of it until after it is granted. The preliminary order is granted upon the basis of the complainant's statement, without giving the defendants a hearing. Serious consequences may result from this practice. The purported facts may convince the court that unlawful acts have been committed or are about to be committed, and the recital in the newspapers of such purported facts will adversely affect public opinion in respect to labor's side of the controversy. The injunction, even though later dissolved by a higher court, has already accomplished the purpose desired by the employer. It has broken the morale of the workers and has maintained the *status quo* which labor attempted to change.

6. A point somewhat similar to that discussed in (5) is the fact that a judge may punish acts which he regards as violating his injunction but which on appeal may not be so regarded. In this way, he may coerce workmen to do things they may lawfully refuse to do, or to refrain from doing things they may lawfully do.<sup>1</sup>

7. Blanket injunctions are often granted. Persons entirely ig-

<sup>1</sup> A case in point is that of *Illinois Malleable Iron Co. v. Michalek*, *supra*.



norant of the injunction may be found guilty of contempt of court and punished.<sup>1</sup>

8. The use of injunctions in labor disputes has involved workmen in a very heavy financial burden. To fight these cases, attorneys must be employed, court costs must be paid, bonds furnished, etc. Labor believes that it thereby suffers a great injustice, since it holds that the whole proceeding is wrong, in that it represents government by men, not by law.<sup>2</sup>

The Illinois State Federation of Labor has led the fight against labor injunctions in Illinois. In 1899, President Charles Dold protested against their use, and a plank embodying this protest was made part of the State Federation's platform for that year.<sup>3</sup> In 1901, the first bill designed to limit the meaning of the term "conspiracy" and the use of injunctions in labor disputes in Illinois was introduced into the General Assembly. It was referred to the House Committee on Labor and Industrial Affairs, but was not reported out by the Committee. From that year until the injunction limitation bill of 1925 was passed, the fight for bills of this nature became a regular feature of legislative sessions in Illinois. In 1903, a bill providing that cases of contempt should be tried by jury, and another making a distinction between direct and indirect contempts, were introduced. Many bills of like character have come before the General Assembly since that time.<sup>4</sup> The injunction limitation bill of 1903, introduced by Mr. Chipperfield, and containing amendments submitted by Representative Clarence Darrow, permitted temporary injunctions, operative not exceeding forty-eight hours, to be issued for good cause shown. If any body of workmen had the name of their attorney on file with the clerk of the court in which

<sup>1</sup> It appears that the first blanket injunction issued by Illinois courts was granted in 1903 in connection with the Kellogg Switchboard and Supply Co. strike. See H. B. Myers, *The Policing of Industry*.

<sup>2</sup> For statements by leading trade unionists concerning labor's attitude toward the injunction see United States Congress, Senate, Seventieth Congress, First Session, *Hearings before a Sub-committee of the Committee on the Judiciary on S. 1482*, 1928, on "Limiting Scope of Injunctions in Labor Disputes."

<sup>3</sup> Illinois State Federation of Labor, *Proceedings of the 1899 Convention*, pp. 8, 40.

<sup>4</sup> The Associated Employers of Illinois has consistently opposed these bills.

the injunction was asked for, no injunction was to be granted against them without notice to the attorney and a hearing. In all proceedings to punish for the contempt of an injunction issued under the act, no person was to be deprived of his liberty or property without first having the subject matter of the contempt submitted to a jury. The bill, however, did not come up for third reading before the close of the session.

Organized labor's protest gained momentum with each succeeding year. Labor leaders considered their injunction limitation bills of greater importance than any other type of legislation. A special convention, called by the Illinois State Federation of Labor and attended by 1,046 delegates from all parts of Illinois, was held at Springfield in 1915 to consider the injunction problem. Another special convention, called for the same purpose, was held in Chicago in 1916. President Gompers, of the American Federation of Labor, was present. A bill, patterned after the labor provisions of the Clayton Act of 1914, was drafted, and President Walker, of the State Federation, recommended that henceforth it be made the "paramount legislative measure" by organized labor in Illinois, and that "everything else be subordinated to the supreme effort of securing" its enactment at the earliest possible moment.<sup>1</sup>

When the Illinois General Assembly convened in January, 1921, the State Federation was prepared to reintroduce the injunction limitation bill which had been introduced in previous sessions. About this time, however, the United States Supreme Court handed down a decision<sup>2</sup> which destroyed the effectiveness of the Clayton Act in correcting the evils complained of by organized labor. It was therefore necessary to redraft the Illinois bill, since it was

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1916 Convention*, pp. 23-25.

Organized labor has not been *entirely* alone in its fight against the injunction. When the injunction limitation bill and the jury trial bill were before the 1917 General Assembly, a petition containing the names of a surprisingly large number of prominent citizens of Chicago was presented to that body urging passage of these bills. See Illinois State Federation of Labor, *Weekly News Letter*, March 3, 1917, for a reprint of the petition.

<sup>2</sup> *Duplex Printing Press Co. v. Deering*, 254 U.S. 443 (1921).

practically certain that if the bill were enacted into law, the Illinois Supreme Court would follow the interpretation placed on the Clayton Act by the United States Supreme Court, and from a practical point of view labor would have made very little gain. The work of redrafting the bill was placed in the hands of Angus W. Kerr, chief counsel of the United Mine Workers of Illinois, and John H. Walker and Victor A. Olander, president and secretary, respectively, of the Illinois State Federation of Labor. As redrafted, part of the language of the bill was new, part was based on the Clayton Act, and part on the British Trades Disputes Act. It was designed to define clearly the status of labor as an attribute of life distinct from property, to declare the right of working people to organize into trade and labor unions for the purpose of mutual aid in maintaining and advancing their economic and social conditions, to assert their right to quit work either singly or in concert and to persuade others so to do, and to assist each other during industrial disputes by the payment of strike benefits and in other ways. As regards injunctions proper, the bill provided that "no court, tribunal, judge, nor any officer or official of this State, shall, by any process, order, injunction, restraining order, decree or proclamation, abridge or interfere with any of the rights or acts herein declared to be lawful or which are otherwise so."<sup>1</sup> The bill was introduced into the House of Representatives in April, but was tabled by the Committee on Judiciary.

#### INJUNCTION LIMITATION LAW OF 1925

Before the 1925 General Assembly met, part of the language of the redrafted bill was declared unconstitutional by the United States Supreme Court in the *Truax* case involving an anti-injunction bill passed by the Arizona legislature. It was therefore necessary to redraft the Illinois bill a second time. The new bill was drawn after long and serious study and debate by the officers of the Illinois State Federation of Labor and the members of the Joint Labor Legislative Board, with the assistance of others who had made a study of social and economic problems. The most important

<sup>1</sup> Illinois State Federation of Labor, *Report of the Joint Labor Legislative Board of Illinois on Legislation* (1921), pp. 12-13.



constitutional difficulty to be avoided was that raised by Chief Justice Taft in the above-mentioned Arizona case. In this case, the Chief Justice held that the decision of the Arizona Supreme Court, in upholding the act, apparently legalized certain manifestly illegal acts and left the victims of such acts without recourse in law. The new Illinois bill was designed to avoid all constitutional difficulties while at the same time effectively limiting the issuance of injunctions and asserting the right of laboring men to organize. The language of the bill was composed of combinations and modifications of the Clayton Act; of the Pearre bill which had been introduced into Congress some years previously;<sup>1</sup> of a bill drawn by Andrew Furuseth for the American Federation of Labor; and of bills drawn by Victor A. Olander, Rev. J. W. R. Maguire, and Angus W. Kerr.<sup>2</sup>

This bill was vigorously opposed by various employers' associations. Cyrus E. Dietz and Otto Jaburek, attorneys for the Associated Employers of Illinois, and Colin C. H. Fyffe, attorney for the Illinois Manufacturers' Association, argued against the bill at a hearing before the House Committee on Judiciary. John H. Walker, Rev. J. W. R. Maguire, and Victor A. Olander spoke in favor of the bill. The bill was favorably reported, and passed second reading without attempts being made to amend it. On third reading, however, it failed to receive a constitutional majority and was lost.

A new and modified bill was immediately prepared by the officers of the Illinois State Federation of Labor and the Joint Labor Legislative Board, and introduced into the General Assembly. It consisted of section 6 of the bill that failed to pass, and dealt only with the problem of picketing. It was favorably reported by the Senate Committee on Judiciary, but was vigorously opposed on the floor of the Senate by Senator James J. Barbour,

<sup>1</sup> This bill (H.R. 94) was introduced by Representative Pearre on December 2, 1907. It was drafted by T. C. Spelling, counsel for the American Federation of Labor. See *Hearings before the Committee on the Judiciary*, House of Representatives, 62d Congress, 2d Session, January 19, 1912, p. 261.

<sup>2</sup> Rev. J. W. R. Maguire, "Labor's Proposal To Limit Injunctions," in Illinois State Federation of Labor, *Weekly News Letter*, February 14, 1925.



from the Gold Coast District of Chicago and Evanston; Senator Adelbert H. Roberts, the colored senator representing the poverty-stricken section of Chicago's Near South Side; Senator Rodney Swift; and Senator Henry M. Dunlap. Senator Barbour deplored the fact that legislation had been enacted against "big business," and expressed much concern at the misfortune of Armour, the packer, who had been compelled to wander about the country "living in boarding-houses—or, maybe, hotels." Senator Roberts said, in substance, that his opposition to the trade unions was based on their discrimination against negro workers. Senator Swift, from the Eighth District, where the organized milk-producers had suffered under injunctions some years before, was vicious in his onslaught against the bill, and went to the extent of suggesting that the trade unionists who were urging injunction-limitation legislation ought to go to bolshevist Russia. Senator Dunlap, "smarting under the continued defeat of his military state police bill," also aided the opponents of labor by urging the senators to vote against the bill.<sup>1</sup> The bill passed the Senate on May 26, 1925, by a vote of 28 to 17, or two votes more than a constitutional majority. It passed the House on June 10 by a vote of 78 to 65, or one more than a constitutional majority.

In the words of the State Federation of Labor:

A great victory had been won for the working people of Illinois. An important step had been taken towards equality of all citizens before the courts of the state. New vitality was given to the constitution, and the right of free speech and free press was declared for strikers as well as employers.<sup>2</sup>

The language of the new law is as follows:

SECTION 1. No restraining order or injunction shall be granted by any court of this state, or by a judge or the judges thereof, in any case involving or growing out of a dispute concerning terms or conditions of employment, enjoining or restraining any person or persons, either singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from peaceably and without threats or intimidation

<sup>1</sup> Illinois State Federation of Labor, *Weekly News Letter*, May 30, 1925.

<sup>2</sup> *Ibid.*, June 13, 1925.

recommending, advising, or persuading others so to do; or from peaceably and without threats or intimidation being upon any public street, or thoroughfare or highway for the purpose of obtaining or communicating information, or to peaceably and without threats or intimidation persuade any person or persons to work or to abstain from working, or to employ or to cease to employ any party to a labor dispute, or to peaceably and without threats or intimidation recommend, advise, or persuade others so to do.<sup>1</sup>

While the language of this law in some respects resembles a part of Section 20 of the Clayton Act dealing with the same subject, there is a difference in that the Illinois law does not contain the word "lawfully" as a qualification in relation to the place where strikers may exercise the rights set forth in the statute. The discretion of equity courts in Illinois is in theory more closely limited than under the Clayton Act.

The constitutionality of the injunction limitation act was upheld by Judge Hugo Pam, of the Superior Court of Cook County, but denied by Judge Dennis Sullivan, one of the hated "injunction judges." The latter case was argued before the Supreme Court and a decision expected in October, 1926, but none was handed down until June, 1927.<sup>2</sup> Contrary to expectations, the Supreme Court did not pass upon the constitutionality of the statute, but upheld the contempt charges against the defendants.<sup>3</sup>

During the short time the act has been in force, it has caused very little change in the practice of issuing injunctions against picketing. Some judges grant them very freely. Others, in spite of the fact that they are known to be favorable to labor, have issued drastic injunctions in cases where some more or less inconsequential unlawful act was committed by the union or its members. It ap-

<sup>1</sup> *Laws of 1925*, p. 378.

<sup>2</sup> Organized labor believes that politics was the cause of the delay. Governor Small was supported by organized labor, and the Supreme Court was opposed to Small, who tried to secure the election of Scholes, a Small man, to the Supreme bench, instead of Stone, a member of the court. If an adverse decision in the injunction case had been handed down before the close of the legislative session, organized labor might have been able to secure some kind of legislative action.

<sup>3</sup> *Ossey v. Retail Clerks' Union*, 326 Ill. 405 (1927).

pears, therefore, that organized labor has gained practically nothing of immediate importance through its injunction limitation law.

#### SUMMARY AND CONCLUSIONS

It is evident from the foregoing discussion that workingmen are seriously handicapped in their efforts to compel their employers through the use of collective bargaining to maintain or advance wages or improve conditions of employment. The right to organize, to strike, to boycott, to picket, and even to use peaceful persuasion are either always denied or are denied or restricted in various concrete cases. The closed-shop strike is of doubtful legality. Employers, however, are practically unrestricted in their dealings with their workmen. The employer has an absolute legal right to discharge his employees with or without cause; his right to lockout his men is unrestricted; he may lawfully maintain a shop closed to union men if he so desires, and in doing so may lawfully compel his workmen as a condition of employment to sign "yellow dog" contracts; and he may in actual practice blacklist any workman without fear of the law. In contrast to associations of workingmen, associations of employers are seldom adversely affected by the law.<sup>1</sup>

The question arises whether this inequality before the law is desirable from the standpoint of public policy. To the writer, it is clearly contrary to good public policy. In effect, the denial of the right to organize and bargain collectively with their employers denies to workmen the right of freedom of contract, and thus places a great portion of the population at the not always tender mercies of a legally and economically stronger minority of employers. In so far as legal restrictions prevent effective organization, they compel the workman to bargain individually concerning wages, hours, and other conditions of employment with powerful anti-union corporations such as the United States Steel Corporation and the great packing companies. Under such conditions, it is apparent that the workman possesses nothing remotely resembling freedom of contract. The workman seldom has savings which will enable him to withhold his labor until the employer is compelled to come to his

<sup>1</sup> See above, p. 39, for an instance of this kind.

terms; he is not a good bargainer; in the present unorganized state of the labor market he does not know where favorable opportunities for employment exist; and he frequently does not have sufficient mobility to enable him to take advantage of these opportunities even if he knows of their existence. Rarely can the workman depend upon competition of employers for workers to give him what he considers to be a square deal or to obtain for him his full productivity wage. Only when workmen can legally combine and act with the same unrestricted freedom that is permitted the employer will freedom of contract exist in any significant sense. Collective bargaining on a large scale between workmen and their employers is the best guaranty that wages, hours, and other conditions of employment will be at a high and uniform standard, and that peaceable relations will obtain in industry.



## CHAPTER III

### POLICING OF INDUSTRY

The problem of maintaining peace and of preventing violence and bloodshed is likely to become of first importance in any hard-fought industrial dispute. Illinois has faced this problem many times, and organized labor has often believed itself unfairly treated by the state in its struggles for better wages and working conditions. For example, it contends that the state militia has suppressed its strikes, that county sheriffs have sworn in employers' agents as deputy sheriffs, that employers have taken the problem in their own hands by hiring private detectives independent of state supervision, and that recently there has been a propaganda for a state constabulary such as has been used to oppress the working class in other states. The employers may reasonably be absolved from part of the blame for the evils complained of by the workers, inasmuch as public officials have often been lax in enforcing the law and maintaining order. There is, however, much to be said in favor of the workers' contentions, for serious abuses have certainly been practiced by various employers in the course of disputes with their employees. In this chapter we shall discuss some of the grievances connected with the policing of industry complained of by the working classes.

#### STATE MILITIA

During the labor troubles of the seventies the General Assembly deemed it expedient to create a state militia which might be used to suppress any violence that might arise. The laboring classes looked upon this as a menace to their liberties. They were sure the militia had been organized to aid employers to keep them in subjection. In consequence, they thought they would have to meet force with force, and organized armed bodies for their own protection. This in turn led the employing class and its adherents to demand an increase in the strength of the state militia. In February, 1879, a

subcommittee on military affairs held hearings at which there was expressed a fear of communist uprisings in Chicago. The newspapers supported the movement for increased military power of the state.

Certain members of the General Assembly, however, opposed the military project. They pointed out that while friends of the bill said it was intended to prevent the growth of socialism and communism, experience in Europe, where the military power was supreme, had shown the futility of attempting to control political sentiment by its use. Moreover, they stated that in Illinois the tendency to insubordination appeared to have steadily increased since 1877, when the first state militia bill was passed. The working classes were convinced that the state militia had been created to oppress them. They believed themselves liable to attack and had prepared to meet force with force. These legislators thought that demands for further increases in military strength would be made, and that in the course of a few years the people would be taught to believe that American institutions were based upon force. This would be "injurious to the people of this state and dangerous to republican institutions." They were certain that the proposed law would "foster the growth of such ideas, producing discontent as it increases taxation and begetting a spirit of opposition to our institutions, which will endanger their permanency and usefulness."<sup>1</sup> The bill, however, passed both House and Senate by large majorities.<sup>2</sup>

#### UNITED STATES MILITARY POST

In the middle eighties there was another proposal which was interpreted by the working classes as a further attempt to overawe them. The General Assembly in 1887 passed a bill permitting the United States to acquire certain lands on Lake Michigan about twenty-five miles north of Chicago for the purpose of establishing a military post.<sup>3</sup>

<sup>1</sup> See *Senate Journal*, 1879, pp. 1003-04.

<sup>2</sup> *Laws of 1879*, p. 192. This law also contained provisions suppressing armed bodies of workmen. For a discussion of this matter see chapter on "Legality of Labor Unions and Their Methods."

<sup>3</sup> *Laws of 1887*, p. 304.

When Senate Joint Resolution No. 78, authorizing the United States government to accept this tract of land, was before Congress, workmen of Chicago protested against its passage. General Weaver, representative from Iowa, vigorously opposed the resolution, and warned the House "in the name of the laboring men of this country, not to pass legislation which looks to overawing the people by military establishments, but to go to work and undo the legislation which has brought about our present discontent."<sup>1</sup> According to the *Knights of Labor*,<sup>2</sup> the circulation in Washington of an editorial written by Albert Currin and published in his socialistic *Arbeiter Zeitung* of Chicago, in which he urged workmen to arm themselves, caused Congress to accept the land and establish the military post.<sup>3</sup>

#### USE OF PRIVATE DETECTIVES

During the serious labor disturbances of 1885 and 1886, the governor received a number of appeals from various parts of the state for use of the militia in restoring the public peace. In one of these cases a railroad corporation imported men from Kentucky, Mississippi, and Texas, and secured their appointment as deputy sheriffs for the purpose of guarding its property during a switchmen's strike at East St. Louis. These deputies fired into a crowd of people gathered upon a bridge and killed or wounded several persons. After the arrest of these "hirelings" for murder, the court and grand jury of St. Clair County refused to try them. The railroad company had a special train waiting near the courthouse, and when the alleged murderers were released by the court they were conducted to the train under guard and each given a railroad pass and fifty dollars in money and sent whirling out of the state. The state assembly of the Knights of Labor deplored the fact that the fountains of justice in Illinois could be blocked by corporate in-

<sup>1</sup> *Congressional Record*, XVIII, Part 3, 49th Congress, 2d Session (1887), 2701.

<sup>2</sup> April 16, 1887, p. 8.

<sup>3</sup> Currin thought that the more the workingmen were ground down, the sooner the social revolution would come. A similar speech by Currin was also instrumental in the adoption of the Merritt conspiracy bill in Illinois. See chapter on "Legality of Labor Unions and Their Methods."

fluence, and that to murder men with impunity required only that the murderer be backed by a railroad company; and demanded that the matter be investigated and proper measures be taken by the General Assembly.<sup>1</sup>

Two Senate joint resolutions were accordingly introduced into the General Assembly, one providing for an investigation of this particular disturbance, and the other providing for a joint legislative committee to investigate the facts and circumstances surrounding "the several more important labor difficulties or 'strikes' which have occurred in this State during the last eighteen months." The second resolution stated that the business interests of the people had been "seriously interfered with and greatly disturbed in almost every county" and that before peace and quiet could be restored large amounts of property had been destroyed, several lives lost, many workmen maltreated and nearly killed in their attempts to obtain employment in the places of those on strike, and the prosperity of the people "seriously endangered and crippled by lawless and irresponsible parties."<sup>2</sup> These resolutions were referred to the Committee on Judiciary, but Senator Charles H. Crawford, of Cook County, whom organized labor considered one of its worst enemies, moved that action be postponed until some future time, and nothing further was done.<sup>3</sup>

A request by Governor Oglesby, however, was acted upon by the General Assembly. Although he had ordered out the militia on several occasions, there were no legislative enactments or constitutional provisions stating precisely under what conditions and in what cases the militia might be used. The governor therefore recommended that a law be passed defining his powers in cases of disturbance of the peace.<sup>4</sup> A special committee of seven was appointed to consider the governor's recommendations, and it introduced a bill covering the points involved. This bill was passed by both houses and approved by the governor.<sup>5</sup> It authorized the

<sup>1</sup> See *Senate Journal*, 1887, p. 168.

<sup>2</sup> *Senate Journal*, 1887, pp. 168, 190-91.

<sup>3</sup> *Ibid.*, p. 364.

<sup>4</sup> *House Journal*, 1887, p. 24.

<sup>5</sup> *Laws of 1887*, p. 239.



county sheriffs to enrol any number of special deputies for preservation of the peace and good order of society. Whenever a sheriff, with the help of his force of special deputies, was unable to preserve the peace, he was to call upon the governor for such military force as might be needed to preserve the peace and execute the law. It was made the duty of the governor to order out the militia in cases of tumult, riot, or mob disorder, and in cases where such violence was threatened. It was declared unlawful for any force or company of private detectives, or private citizens, not police officers, to parade with arms without special permission from the governor, or to assume to act as officers of the law without proper authority. This provision was included for the purpose of preventing usurpation of the police powers of the state by such organizations as the Pinkerton Detective Agency and Pinkerton's Protective Patrol.

Of all the grievances of organized labor in the eighties the chief was the use of private detectives by large corporations and railroads for the purpose of spying on their workmen and suppressing strikes. The most detested of all such organizations was the Pinkerton Detective Agency, which was reputed to have an army, "Pinkerton's movable mob," comprising 1,600 armed men, many of whom were barracked in Chicago, and a private prison or jail in Chicago where prisoners were kept.<sup>1</sup> For a number of years, Pinkerton's Detective Agency and Pinkerton's Protective Patrol had been offering their services to large employers of labor and had built up a thriving business.<sup>2</sup> Riots and bloodshed were very likely

<sup>1</sup> *The Knights of Labor*, January 22, 1887.

<sup>2</sup> Below is a copy of a circular letter sent out to employers by the Pinkerton agencies:

"Corporations or individuals desirous of ascertaining the feelings of their employes, whether they are likely to engage in strikes or join any secret labor organization, such as the Knights of Labor, with a view of compelling terms from corporations or employers, can obtain upon application to the superintendent of either of the offices a detective suitable to associate with their employes and obtain this information.

"At this time, when there is so much dissatisfaction among the labor classes, and secret labor societies are organizing throughout the United States, we suggest whether it would not be well for railroad companies and other corporations, as well as individuals who are extensive employers, to keep a close watch for designing men

to occur wherever the Pinkerton men were used, for many, if not most, of them were thugs, criminals, and desperadoes whose violent and ruthless tactics always excited the anger of the working classes.

While the clause in the above-mentioned law, if enforced, would prevent private agencies from usurping powers properly belonging to the state, it would not prevent county sheriffs from appointing private detectives as deputy sheriffs, or prevent employers from hiring private detectives to spy on their employees or to guard their property. Organized labor therefore continued its endeavor to secure laws preventing both of these abuses.

In 1893, the enactment of a law was secured by organized labor which would prevent the movement of detective forces from one county to another for use as deputy sheriffs. It was made unlawful for the sheriff of any county or the corporate authorities of any city, town, or village in Illinois to appoint any person to act as deputy sheriff, special constable, or special policeman for the purpose of preserving the peace, who was not a citizen of the United States, and who had not been an actual resident of the county for one whole year previous to his appointment.<sup>1</sup>

With regard to the regulation or abolition of private detective agencies who furnish spies and guards to employers, organized labor has thus far had no success. At the second annual session of the state assembly of the Knights of Labor in 1886, the topic which excited most interest was a resolution concerning Pinkerton's detective force.<sup>2</sup> In 1888, the Union Labor party demanded the "complete obliteration of that public infamy known as the Pinkerton Detective Agency."<sup>3</sup> In 1890, a resolution was introduced at

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among their own employes, who, in the interest of secret labor societies, are influencing their employes to join these organizations and eventually cause a strike. It is frequently the case that, by taking a matter of this kind in time, and discovering the ring-leaders, and dealing promptly with them serious trouble may be avoided in the future."—Taken from Lucy E. Parsons, *Life of Albert R. Parsons* (1889), pp. 174-75.

<sup>1</sup> *Laws of 1893*, p. 129. Since Chicago was the headquarters of most of these private detective agencies, the law was not very effective in the case of Chicago labor disputes. See H. B. Myers, *Policing of Industry*.

<sup>2</sup> *Knights of Labor*, July 17, 1886, p. 7.

<sup>3</sup> *Ibid.*, August 4, 1888.

the convention of the Illinois State Federation of Labor favoring abolition of all private detective agencies because of abuses connected with their use.<sup>1</sup> In 1893, Governor John P. Altgeld devoted part of his biennial message to the subject. He said:

Many civil officers have shown a disposition to shirk their duty during a strike, and this has been followed by the introduction of an irresponsible armed force controlled by private individuals. The presence of these armed strangers always acts as an irritant and tends to provoke riot and disorder, and we should take warning by the experience of some of our sister states and absolutely prohibit the use of these armed mercenaries by private corporations or individuals.<sup>2</sup>

In recent years, organized labor has again attempted to secure the abolition of private detective agencies. The practice of employing gangs of armed sluggers is at present perhaps less prevalent in Illinois than in some other states; but the system of espionage used to prevent organization of workmen in unorganized industries is more flourishing than ever. In Chicago nearly all of the larger private detective agencies have "industrial" departments.<sup>3</sup>

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1890 Convention*, p. 11.

<sup>2</sup> *House Journal*, 1893, p. 52. He also called attention to the fact that protection of life and property properly resided in the civil authorities, and that the state should not be too hasty in ordering out the militia since such action creates irritation and bitterness and frequently results in unnecessary bloodshed.

In 1899, the State Federation proposed a measure which would probably have discouraged employers from urging the Governor to send militia to guard their property. The proposal was to require the corporation whose property was being protected by the militia to pay the per diem of the troops used for the purpose. See Illinois State Federation of Labor, *Proceedings of the 1899 Convention*, p. 27.

In order to make it reasonably certain that the civil authorities would enforce the law and suppress riots, the General Assembly in 1887 made cities and counties liable to property owners for three-fourths of the value of property destroyed by any mob of twelve or more persons. *Laws of 1887*, p. 237.

<sup>3</sup> Statement of Mr. Victor A. Olander. To show how prosperous these agencies are, labor leaders often point to the fact that the Sherman agency, one of the leading agencies of the present day, paid some \$240,000 as income tax to the federal government in one year.

Cities, villages, and towns have the power to tax, license, and regulate detective agencies and private detectives, but this power does not seem to be effectively used. *Hurd's Revised Statutes* (1925), chap. 24, sec. 65, clause 91.



## THE TANNER ACT

In 1895, Governor Altgeld recommended the passage of a law prohibiting the importation into Illinois of squads of men to take the jobs of other men. He was moved to make this recommendation by the serious situation which had developed at Spring Valley, Illinois. Some years previously, a number of non-resident capitalists had bought large tracts of coal lands at this place and had opened mines. Several thousand miners, most of them Americans, were induced to move there, and many of them were also induced to purchase lots from the company. The company then pursued "so greedy and unconscionable a course" toward its employees, through truck stores and other devices, that the men became restless. It thereupon displaced most of these workers with foreigners who had been brought in for the purpose. This left the former employees without jobs in a locality where no jobs were to be had, and disturbances naturally followed. The new men were also soon "reduced to intense poverty by the exactions and greed of the company," and became sullen and discontented. The company then began to displace these men by negroes. The Governor stated that this company had been "a curse and a bill of expense to the state from the time it commenced operations," and that almost every administration for a number of years had had to send a military force to protect the property of a concern that was really causing the trouble.<sup>1</sup>

The General Assembly did not take action at this time, but four years later, during Governor Tanner's administration, trouble of the same general nature, occurring at Virden and Pana, brought about the enactment of a law.

After the joint agreement was signed by the coal operators and coal miners following the great strike of 1897, the coal operators at Virden, Illinois, refused to pay the scale called for in the agreement, locked-out their workmen, and refused to accept the award made by the State Board of Arbitration although they were joint applicants to the proceedings. Instead, they determined to import non-union negro miners to take the place of their locked-out men. A

<sup>1</sup> *House Journal*, 1895, p. 34.



train load of Alabama negroes were accordingly brought into the state under the protection of men armed with repeating rifles. Governor Tanner, instead of sending the militia to aid the employers in their project, astonished the employing class by sending troops to Virden under strict orders not to permit the negroes to detrain. The Governor believed the importation of strike-breaking negroes under armed guards who were not citizens of Illinois and who had no authority to perform police duty in the state, was contrary to good public policy and unfair to the workmen of the state. When the General Assembly met in 1899, he urged the enactment of a law prohibiting such practices.

A bill was accordingly passed<sup>1</sup> which prohibited employers from inducing workmen to go from one place to another within the state and from bringing workmen into the state, through the use of false representations concerning the kind of work and the conditions under which it was to be performed, and the existence of labor troubles at the proposed place of employment. Failure to mention the existence of labor troubles when hiring such men was to be deemed false advertisement and misrepresentation under the act. Persons violating this section were subject to a fine not to exceed \$2,000 in amount, or to confinement in the county jail not to exceed one year, or to both fine and imprisonment. Anyone hiring armed men to bring workmen into the state or to move them from one place to another within the state, and persons coming into Illinois armed with deadly weapons for any such purpose, without written permission of the governor, were to be imprisoned in the penitentiary for a period of from one to five years. Workmen persuaded to come into the state or to go from one place to another in the state, by means of false representations, were entitled to recover damages.

In 1911 this act was declared unconstitutional by the Illinois Supreme Court in the case of *Josma v. Western Steel Car Co.*, 249 Ill. 508. The court stated that the act imposed upon persons employing workmen coming from another place to the place of employment a different measure of liability, both civil and criminal, for

<sup>1</sup> *Laws of 1899*, p. 139.

deceit and misrepresentation from that imposed upon other persons, and that it was therefore invalid unless sustainable as a proper police measure. But it was not sustainable as a proper police measure since the class of workmen to whom the act applied was arbitrarily limited to those changing from one place to another, and the misrepresentation and deception arbitrarily limited to conditions which were as important to professional and semi-professional people in the employ of others as to workmen. The act was therefore invalid as special legislation.

This case was brought before the courts and the act declared unconstitutional without organized labor being aware of it.<sup>1</sup> The act had been passed during a period of considerable excitement over the trouble at Virden and Pana, and many legislators voted for it in spite of their belief that it would not meet the constitutional test. Its constitutionality had never been tested until the Josma case, and in the meantime the miners had the benefit of whatever incidental protection it could afford them in times of labor difficulties.<sup>2</sup>

#### STATE CONSTABULARY

In the last decade a proposal which has caused organized labor no little worry is that of establishing a state military police, or state constabulary, for the ostensible purpose of providing a police force in rural communities adequate to apprehend bank robbers and other law-breakers. In other states where such a police force has been organized, it has been used to oppress the working class;<sup>3</sup> and organized labor feels certain that the proponents of the state police in Illinois intend that it should be used for this purpose here also.

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1911 Convention*, p. 86.

<sup>2</sup> From an editorial in the *Illinois State Journal* of February 22, 1912, part of which was reprinted in *Fuel*, XVIII, No. 17 (February 27, 1912), 656.

In 1913, efforts were made to secure the enactment of a law prohibiting employers from inducing persons to enter into contracts of employment by means of false representations, false advertisements or false pretenses, or without disclosing the existence of labor troubles. These efforts, however, were unsuccessful.

<sup>3</sup> See U.S. Commission on Industrial Relations, *Final Report* (1915), pp. 149-50.

The first bills for the creation of a state police force were introduced in 1917. In 1919, they were again introduced, the one in the Senate being offered by Senator Dunlap, of Champaign County, the chief legislative proponent of this type of legislation in Illinois. Organized labor filed numerous protests against the bill. Such bills have been offered at every legislative session since 1919, but their opponents, of whom organized labor is perhaps the most vigorous, have always been able to secure their defeat.

The Illinois Manufacturers' Association has been ardent in its support of these bills; but it appears that the proposal to create a state constabulary did not originate with the manufacturers or bankers of Illinois, but was conceived by a self-appointed committee of publicity agents who used it as a means by which to solicit contributions from bankers, firms, and corporations for their support of the measure.<sup>1</sup>

<sup>1</sup> This was admitted by John M. Glenn, secretary of the Illinois Manufacturers' Association. See Illinois State Federation of Labor, *Weekly News Letter*, April 9, 1921.

## CHAPTER IV

### ARBITRATION AND MEDIATION OF INDUSTRIAL DISPUTES

#### GROWTH OF INTEREST IN ARBITRATION

With the phenomenal growth of the Knights of Labor and other labor organizations in the eighties, and the spectacular strikes, lockouts, and boycotts which accompanied it, a large proportion of the people became interested in the problem of maintaining industrial peace. The Knights of Labor, while conducting many strikes and boycotts, urged arbitration as a better solution of their problems. They believed the state should intervene in the case of industrial disputes just as it intervenes in the case of personal encounters, riots, and other forms of violence. Other labor unions, being frequently defeated in struggles with employers, were then also heartily in favor of arbitration. This period was characterized by a belief among the laboring classes in the efficacy of legislation to relieve their burdens. The employers opposed arbitration laws since they were able to hold their own without assistance from the state, and in addition did not relish interference with the conduct of their business by an outside authority. The attention of the public was directed to the problem partly by the inconvenience which the public often experiences, but perhaps more so by the mere fact that labor disputes in large number and of serious aspect were suddenly thrust into the foreground. These disputes became the most absorbing topic of the day, especially after the Haymarket Riot of May 4, 1886. Many people came to the conclusion that arbitration was the best, if not the only, solution available.

#### EARLY ARBITRATION BILLS

When the General Assembly met in 1887, several bills were introduced providing for arbitration or mediation in one form or another. One bill was a copy of the law then in force in Massa-



chusetts. Another provided that after a strike or lockout had occurred, neither the strikers nor the employers should have any standing in the arbitration court, the object being to prevent strikes and lockouts rather than to settle them after they had occurred.<sup>1</sup> A third bill, drafted by Mr. C. C. Bonney, a distinguished attorney of Chicago, and approved by the Illinois Bar Association,<sup>2</sup> provided for a State Board of Labor and Capital, consisting of five persons appointed by the governor and having power to make thorough inquiry into the relations between employers and employees in any industry in the state. In case of fraud, extortion, or oppression it was to issue such orders as might be required<sup>3</sup> to correct the evils found, and all persons concerned were to abide by the orders issued.<sup>4</sup> Persons resisting any such order might be fined not more than \$5,000, or imprisoned not more than one year, or both. Orders of the board might be voided by executive order of the governor, or by a judicial order or decree of a court of equity.<sup>5</sup>

It was expected that these bills would be of public benefit chiefly through their aid to the laboring classes. That this was the case may be deduced from some of the arguments offered by Mr. Bonney in defense of his proposal for compulsory arbitration. The arguments in point are as follows:

1. The principle underlying usury laws was sufficiently broad to cover the proposed legislation.
2. The right and duty of the whole people to protect the weak against the strong was axiomatic.
3. The people should appoint their own agents and inspectors to inquire into the condition of those needing protection, and, if such protection was required, to take the necessary steps to secure it.

<sup>1</sup> *Knights of Labor*, February 5, 1887.

<sup>2</sup> See *Ibid.*, February 19, 1887.

<sup>3</sup> Including regulation of wages and hours of labor.

<sup>4</sup> The board was expected to proceed in labor matters in much the same way as the State Board of Railroad and Warehouse Commissioners proceeded in matters of transportation. See Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), p. 365.

<sup>5</sup> The bill may be found in *Knights of Labor*, January 22, 1887.

4. The inadequacy, expense, and delay involved in legal proceedings prosecuted by individuals were so great and so notorious that it was simply mockery to bid the poor and helpless to institute lawsuits to remedy the wrongs they suffered. The people should appoint their own agents to grapple with and remove the abuses which commonly resulted in pauperism and crime.

5. The proposed inspection would be highly beneficial to all well-conducted business establishments. Only those employers who had some wrong to conceal would object to a visit from high state officials appointed to secure peace and prosperity to employers and workers in every department of industry.<sup>1</sup>

The Illinois Bureau of Labor Statistics in its report for 1886 called attention to the tendency toward centralization and aggregation of industry then in evidence, and consequent separation of people into classes, one of which was doomed to a permanent subordinate status. Employers in many instances refused to arbitrate matters in dispute and the employees were forced to institute strikes or boycotts in an effort to maintain or better their condition.

In order that these new conditions . . . may not involve the oppression of the many, and the ultimate deterioration of the dependent class, the demand is made for such state intervention and regulation as will relieve the industrious poor from the necessity of sacrificing their time and wages in strikes.<sup>2</sup>

In spite of the fact that labor organizations, the State Bureau of Labor Statistics, and the public in general favored the enactment of an arbitration law, the General Assembly of 1887 did not take action. Of the four or more measures introduced, only one was passed by the House and none passed the Senate. A similar fate overtook bills introduced in each succeeding legislature until 1895. Opposition by the employers was of greater influence than the favorable attitude of all other parties combined. The coal operators opposed various arbitration bills introduced in 1891 on the ground that laws of this kind would jeopardize and interfere with

<sup>1</sup> See Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 355-56.

<sup>2</sup> *Report* (1886), p. 365.

private rights. To make compulsory the arbitration of questions "relating wholly to private interests," would make universal such injustice as was then only occasional or exceptional. "The time of men of large affairs would be consumed in petty arbitrations, to the serious, if not fatal, detriment of their interests."<sup>1</sup> The coal miners expressed surprise that the operators should publicly oppose the enactment of a law whose object was to prevent strikes and give full justice to everyone concerned,<sup>2</sup> but the legislature took no more heed of their expressions of surprise than it did of their arguments.

#### CONGRESS ON INDUSTRIAL CONCILIATION AND ARBITRATION

Not until after the great Pullman strike of 1894 and its attendant violence did public opinion become sufficiently aroused and unified to be effective in the state legislative chambers. As soon as the strike was over, Mrs. Potter Palmer and the provisional board of conciliation organized for the purpose of effecting a settlement of the strike, undertook the task of building up sentiment for a conference which it was expected would bring to light methods and principles in use elsewhere for preventing and adjusting industrial disputes, and ultimately result in the drafting of an arbitration bill for Illinois. This agitation led to the calling of a Congress on Industrial Conciliation and Arbitration to be held in Chicago on November 13-14, 1894, under the auspices of the Civic Federation of Chicago. Miss Jane Addams was secretary of the committee having charge of the conference and was responsible for much of its success. Numerous addresses by prominent citizens dealt with various aspects of the problem and the immediate outcome was the drafting of a bill which it was believed embodied the best provisions from arbitration laws then in operation in other states and countries.<sup>3</sup>

<sup>1</sup> Illinois Bureau of Labor Statistics, *Sixth Biennial Report* (1890), protest and argument of Illinois coal operators against adverse legislation, and reply by the Illinois coal miners, p. 401.

<sup>2</sup> *Ibid.*, pp. 417-19.

<sup>3</sup> Jane Addams, *Twenty Years at Hull-House*, pp. 213-14; Civic Federation of Chicago, *Congress on Industrial Conciliation and Arbitration* (1894), p. 94. The bill



## GOVERNOR ALTGELD'S ATTITUDE

Governor Altgeld, in his biennial message to the General Assembly in 1895, showed a clear insight into the strength and weakness of state intervention in its various forms. He did not favor compulsory arbitration since there was no practicable method of enforcing a decree or award in every case. There would be no difficulty, however, in the way of making a compulsory investigation, and this method would have the advantage of being a preventive as well as a corrective of industrial disputes. Prompt ascertainment and publication of the facts involved in every case would result in an informed public opinion which would often force a settlement, while fear of such an investigation would be equally efficacious as a preventive. The Governor strongly urged the enactment of a law providing for a new board in each case, allowing each party to select an arbitrator and the two thus selected to name the third, or if they were unable to agree upon the third member, authorizing the county judge to select him. Governor Altgeld opposed the appointment of a permanent board since the more powerful interests would endeavor to secure the appointment of their friends as members, and no matter what it did, "it would soon lose the confidence of the workers and of the public, and with this its usefulness would be gone."<sup>1</sup>

## INACTION OF 1895 GENERAL ASSEMBLY

No arbitration bill was passed at the regular session of the 1895 legislature, apparently because of hatred of Altgeld by the Republican party and opposition to such a law by the employers. One bill authorizing the governor to appoint the members of the arbitration board passed the House, but met with strong Re-

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may be found in Civic Federation of Chicago, *First Annual Report of the Central Council* (1895), p. 78. Its provisions were practically the same as those of the bill passed by the special session of 1895. It provided for a State Board of Arbitration with powers similar to those of the board created by the law, but in addition provided for local boards the members of which were to be selected by the two parties to any given dispute.

<sup>1</sup> Governor Altgeld's Biennial Message, in *House Journal*, 1895, p. 34.



publican opposition in the Senate; since the Republicans were certain that Altgeld "would appoint three Democratic demagogues of the worst partisan kind, who would begin encouraging strikes and stirring up strife the minute they got their commissions." They did not believe the provision requiring confirmation of appointments by the Senate was a sufficient guaranty of safety, since "there was a justifiable fear that the Governor would hold back his appointments until after the Legislature had adjourned, and thus inflict his firebrands on the State for nearly two years."<sup>1</sup> The *Chicago Tribune* stated that the Republicans were anxious to pass a law, but were unwilling to do so in such a way as to "enable Altgeld to make it a burden of strife and a curse to the community." They secured amendments making the South Park Commissioners of Chicago the arbitrators, and leaving appointment of their successors to the circuit judges. The legislative session, however, was almost over and there was insufficient time to pass the bill in its amended form.<sup>2</sup>

#### PASSAGE OF ARBITRATION LAW, SPECIAL SESSION, 1895

After the General Assembly adjourned, Governor Altgeld issued a call for a Special Session, one of the chief objects in view being the enactment of an arbitration law. He called attention to the fact that during the previous year one of the large employers of the state went to the seashore and the Thousand Islands while his men were on strike, and that it cost the city of Chicago and the state of Illinois a very large sum of money to protect his property, but the state could not even make inquiry into the nature of the trouble. Altgeld stated that similar conditions were constantly arising and that the public was demanding a law which would prevent such occurrences. Although a mild measure was proposed at the preceding regular session, the corporation lobbyist objected to its passage; and the public remained helpless. He therefore urged the enact-

<sup>1</sup> *Chicago Tribune*, July 3, 1895. This hatred of Altgeld may be partially explained by his friendship for the laboring classes and his courageous stand in pardoning Fielden, Neebe, and Schwab, three of the Chicago "anarchists."

<sup>2</sup> *Chicago Tribune*, July 3, 1895.

ment of a law containing provisions he had advocated a few months earlier in his biennial message.<sup>1</sup>

When the special session met, eleven arbitration bills were introduced but all were tabled except House Bill No. 1. This bill passed the House on July 23, 1895, but the Senate substituted its own text for all after the enacting clause. A conference committee reached an agreement on points of difference, and the bill was passed by both houses and approved by the governor on August 2, 1895.

#### PROVISIONS OF THE LAW OF 1895

The new law,<sup>2</sup> which went into effect immediately, authorized the governor, with the advice and consent of the Senate, to appoint a State Board of Arbitration consisting of three persons, one of whom was to be an employer of labor and one an employee who belonged to some labor organization.<sup>3</sup> Not more than two members might belong to the same political party, and not more than one member might be an employer or a labor representative. Each member was to receive a salary of \$1,500 a year and necessary traveling expenses.<sup>4</sup>

When any controversy or difference not involving questions which might be the subject of an action at law or bill in equity, existed between any employer employing not less than twenty-five persons, and his employees in Illinois, the board was, upon application, to visit the locality of the dispute, make careful inquiry concerning the facts involved, advise the parties what ought to be done to adjust the matter, and make public its written decision. Application for intervention by the board might be made by the employer or by a majority of his employees in the department of the business

<sup>1</sup> See *House Journal*, Special Session, 1895, pp. 4-6.

<sup>2</sup> *Laws of Special Session* (1895), p. 5.

<sup>3</sup> Hatred of Governor Altgeld was not the only reason for refusal of the General Assembly to enact a law providing for local boards for each dispute. The success the state of Massachusetts had had with a permanent board of three members exerted considerable influence on the Illinois legislature. See Waldo R. Browne, *Altgeld of Illinois* (1924), pp. 196-97.

<sup>4</sup> Illinois was one of the very few states which placed their arbitrators on an annual salary.

in which the dispute existed, or by both parties, and was to contain a concise statement of the grievances complained of and a promise to continue operations without strike or lockout until the board reached a decision, or for a period of three weeks following the date of filing the application. In conducting its investigation the board was given power to subpoena and examine witnesses under oath, and to require the production of books containing the record of wages paid. The decision of the board was to be binding for a period of six months upon the parties who joined in the application; but either party might give notice to the other at any time that it would not be bound after the expiration of sixty days. If one party applied for arbitration by the board, but the other refused to join in the application, the board was to conduct an investigation and make public what it believed to be an equitable basis of settlement. Its recommendations, however, were not binding. The board was also given mediatory powers. Whenever it received information that a strike or lockout involving an establishment with twenty-five or more employees had occurred or was threatened, it was to endeavor by mediation to effect a settlement, or to persuade the parties to submit the matter to the board for a decision.

#### ORGANIZATION OF THE BOARD AND AMENDMENTS TO THE LAW

Governor Altgeld immediately appointed as members of the board Judge Anthony Thornton of Shelbyville, W. P. Rend of Chicago, and Charles J. Riefler of Springfield. These appointments were duly affirmed by the Senate and the board organized on August 14, 1895, at the office of Mr. Rend. Springfield, Illinois, was selected as headquarters, and it was decided to adopt rules of procedure modeled after those of the Massachusetts Board of Arbitration and Conciliation. A circular calling attention to the provisions of the law was mailed to employers and labor organizations throughout the state.<sup>1</sup> In its first report the board claimed to have been instrumental, either directly or indirectly, in obtaining settlement of a considerable number of disputes, but stated that it was seriously handicapped by the fact that neither the board mem-

<sup>1</sup> Illinois State Board of Arbitration, *First Annual Report* (1896), pp. 10-11.



bers nor the secretary had been able to obtain reimbursement for necessary traveling and office expenses owing to the indefiniteness of the law. The 1897 General Assembly made an appropriation to care for this matter.<sup>1</sup> The board advocated one other change in the law which, however, was opposed by the succeeding board, and was not acted upon by the legislature. Some difficulty had been experienced in securing the signatures of a majority of employees when applications for arbitration were circulated in establishments employing several hundred men. The first board therefore proposed that the law be changed to permit a duly authorized agent to sign the application in their stead.<sup>2</sup> The next succeeding board opposed this provision on the ground that when the employees personally signed an application they were more likely to feel obligated to abide by the board's decision. It asserted that no case had arisen in which difficulty had been experienced in obtaining signatures of a majority of the employees affected.<sup>3</sup>

In 1899, four changes of importance were made upon suggestion of the board.<sup>4</sup> Experience of the previous year had shown the advisability of extending the jurisdiction of the board to labor disputes involving two or more employers in the same line of business employing in the aggregate twenty-five or more men, but no one of whom employed as many as twenty-five men. In similar cases under the original law the board had no jurisdiction.

The second change was designed to secure to the board prompt information relative to strikes or lockouts. Experience had shown that the earlier the board was able to act the better the results obtained. It frequently happened, however, that a strike or lockout had been in progress several weeks before the board became aware of its existence. To remedy this situation it was made the duty of the mayor of every city and the president of every town or village

<sup>1</sup> *Laws of 1897*, p. 43.

<sup>2</sup> *First Annual Report*, p. 13.

<sup>3</sup> *Third Annual Report* (1898), p. 11.

<sup>4</sup> *Laws of 1899*, p. 75. In passing the bill embodying these changes, the General Assembly manifested a genuine interest in the subject of arbitration, and a desire to increase the effectiveness of the law.



in the state to give prompt information to the board concerning all strikes and lockouts, whether threatened or actually existing, occurring in their localities. The same duty was imposed upon the chief executive officer of every labor union involved in a strike or lockout.

Necessity for the third change was brought to light by the refusal of coal operators at Pana, Illinois, to obey subpoenas of the board. The original law authorized the board to summon witnesses and examine them under oath, and to require the production of books containing the record of wages paid, but no penalty was provided for refusal to comply; consequently, the board's power of investigation was limited to the extent that individuals were unwilling to testify or to produce books. The amendment of 1899 required the several county courts, upon application by the board, to compel witnesses to appear and testify at hearings conducted by the board, and to produce such books and papers as might be deemed necessary (not merely those containing the record of wages paid) for a full and fair investigation of the matter in controversy. Failure to comply was punishable as contempt of court. It was believed that this amendment would prove to be a strong incentive to arbitration. For the better protection of their own interests, employers would be more likely to become parties to the proceedings, since they would be required to testify and produce books anyway. It was also expected that the amendment would give added weight to the findings of the board in cases investigated upon application of one side only, since the public would be aware of the fact that the board's conclusions were based upon knowledge of both sides of the controversy, instead of only one side. Another advantage lay in the fact that employees would obtain correct information as to profits, conditions of competition, and other matters which employers usually refused to divulge. Under other circumstances, workingmen might not believe the employer's statements even though he was telling the truth, but they would have assurance of his truthfulness at hearings before the board. This knowledge was expected to play an important part in bringing about better industrial relations, whether by making the employees

more sympathetic toward the employer's economic situation or by enabling them to secure just concessions from their employers.<sup>1</sup>

The fourth change grew out of the refusal of coal operators at Virden, Illinois, to abide by a decision of the board even though they were joint applicants to the proceedings. Serious riots and considerable bloodshed were the ultimate results, and it was felt that peace might have been preserved if provision had been made for enforcing the board's decision.<sup>2</sup> A provision was accordingly incorporated in the amendatory act providing that in cases where both employer and employees joined in the application for arbitration, but one or the other refused to abide by the decision rendered, the aggrieved party might appeal to the courts, which were empowered to compel compliance by means of contempt proceedings. Punishment for contempt, however, was not to extend to imprisonment. This provision was somewhat similar to one contained in the Indiana arbitration law, which provided that "such punishment shall not extend to imprisonment except in cases of wilful and contumacious disobedience." In drafting the amendment, the Illinois board decided to eliminate imprisonment since it believed the end sought would be reached just as effectively by means of a fine, the amount of which lay wholly within the discretion of the court. The board preferred to have its decisions disregarded in some cases rather than frighten disputants from submitting their differences to arbitration.<sup>3</sup>

In its *Fifth Annual Report*, the board called attention to the advisability of extending its powers to include jurisdiction over disputes which inconvenience the public but which neither side

<sup>1</sup> *Fourth Annual Report* (1899), pp. 10-12.

<sup>2</sup> Governor Tanner was outspoken in his denunciation of the operators at both Pana and Virden. Concerning the latter he said, "Had the Chicago-Virden Coal Company adhered to its agreement, and obeyed the decision of the Board of Arbitration, the deplorable events which followed its repudiation of the decision and the terrible bloodshed of the 12th of October, 1898, would have been wholly averted, and a distressed community would have been instantly restored to peace and its accustomed prosperity." See his biennial message, in *House Journal*, 1899, pp. 22-24.

<sup>3</sup> *Fourth Annual Report* (1899), p. 13.

will submit to the board for arbitration. In such cases the board could use only conciliatory means to effect a settlement. If it attempted to conduct an investigation, it would have to depend entirely upon voluntary testimony. The General Assembly in 1901 accordingly passed an amendment,<sup>1</sup> drafted by the board, which provided that in case of a strike or lockout which the board was unable to settle by conciliatory means or secure its submission to arbitration under the law, but which the majority of the board believed was likely to injure or inconvenience the public with respect to food, fuel, light, means of communication or transportation, or in any other respect, the board might proceed of its own motion to make an investigation and make public what it considered to be a fair and equitable settlement. In prosecution of such an inquiry, it was given power to summon and examine witnesses as in other cases. While the findings of the board in such cases would not be binding upon the disputants, it was believed that an informed public opinion would be an important factor in obtaining settlement. It also frequently happened that one or both parties were favorable to arbitration but were unwilling to take the initiative since the other party might construe such a step as a confession of weakness. The board's recommendation might therefore serve as an honorable way out of the difficulty.<sup>2</sup>

No further change of importance was made in the arbitration law until the enactment of the Civil Administrative Code in 1917.<sup>3</sup> This law abolished the Board of Arbitration, and vested its duties in the Industrial Commission which administered the Workmen's Compensation Act. It was believed that the Industrial Commission, composed of both employers and employees, and already engaged in adjusting differences concerning payment of compensation, would thereby be better qualified to settle industrial disputes than a body appointed for that purpose alone. The Industrial Commission appointed two mediators, one an employer and one an

<sup>1</sup> *Laws of 1901*, p. 90.

<sup>2</sup> *Fifth Annual Report* (1900), pp. 9-10; *Sixth Annual Report* (1901), p. 2.

<sup>3</sup> In 1903, the salary of the secretary of the board was raised from \$1,200 to \$2,500 a year. *Laws of 1903*, p. 84.



employee, whose duty it was to go to the scene of labor troubles and endeavor to bring about a settlement.<sup>1</sup> The Commission seldom interests itself in the matter, but leaves such duties entirely in the hands of the two mediators.

METHODS USED AND RESULTS OBTAINED BY THE ILLINOIS  
STATE BOARD OF ARBITRATION

In discussing the methods used and the results obtained by the State Board of Arbitration, it is convenient to divide the period of its activity into three parts: 1895-1900; 1901-4; 1905-26.<sup>2</sup>

1895-1900.—When the board first organized it endeavored by means of a circular letter to acquaint both employers and workers with its existence, its purpose, and its powers. It attempted to keep itself informed as to the existence of strikes and lockouts in Illinois by the use of newspapers and other sources of information, and immediately offered its services as mediator or arbitrator whenever knowledge of an industrial dispute was obtained. If occasion demanded it, one member endeavored to visit the scene of the trouble and act as conciliator. As previously stated, the board's activity in this respect was at first limited because of its inability to secure reimbursement for necessary traveling expenses.<sup>3</sup> This and succeeding boards stressed their activity as mediators and conciliators as being much more important than their work in formal arbitration proceedings. During the first few years of its existence much of the work of the board was outside of Chicago, since many trades and industries in Chicago had their own methods and facilities for arbitration. The board took the position of encouraging private arbitration so far as possible.<sup>4</sup>

Considering only reported cases, in this period the board was successful in twenty-one and unsuccessful in three cases in which it

<sup>1</sup> Governor Lowden's biennial message in *House Journal*, 1919, p. 18.

<sup>2</sup> Reports not available for period since 1926.

<sup>3</sup> *First Annual Report* (1896), p. 13.

<sup>4</sup> Testimony of Mr. J. McCan Davis, secretary of the Illinois State Board of Arbitration, before the United States Industrial Commission, reprinted in Illinois State Board of Arbitration, *Sixth Annual Report* (1901), p. 16.



attempted to act as mediator.<sup>1</sup> None of these cases was of great importance except the great coal strike of 1897. One reason for the board's failure in this strike was the fact that the strike was national in scope, thus rendering all local intervention "utterly unavailing." The Illinois board joined with similar boards from Indiana, Ohio, Pennsylvania and West Virginia in an attempt to effect a settlement, but withdrew when there appeared to be little chance of success (*Third Annual Report* [1898], pp. 8-9). In this period the board was called upon to act as arbitrator in thirteen cases, and to conduct a formal investigation and make recommendations in four cases. This is almost three times as many cases of this nature as arose during the whole subsequent history of the board. In the first period there were fourteen cases in which one side applied for arbitration but the other side refused to join in the application: refusal by employers accounted for ten of the fourteen. Of the arbitrated cases the decision was accepted by both sides in all except three cases—the employees refusing to accept the award in two cases and the employers in one.

The case in which the employers refused to abide by the award resulted in serious consequences. The coal operators in the Chicago and Alton sub-district (including all coal mines south of Springfield on the Chicago and Alton railroad) had refused to pay their miners the scale price fixed by the joint scale committee early in 1898, and closed their mines. After the lockout had been in progress for two months the operators joined the miners in an application for arbitration by the state board, but refused to accept the award, which called for payment of the scale price. The lockout continued. Two months later the controversy was submitted to a board of referees mutually agreed upon; but when this board reached the same decision as the state board, the operators again refused to abide by the award. The locked-out miners remained peaceable until October, when the Chicago-Virden Coal Company attempted to import a train load of negro miners from Alabama, under the protection of armed guards hired from without the state. Many of these negroes were said to be ex-convicts who had learned coal-mining while

<sup>1</sup> In 1899 and 1900 no mediated cases were reported.

serving sentence. When the train arrived at Virden, a battle occurred with the miners on one side and the guards on the train and in the stockade around the mine on the other. Sixteen persons were killed and several wounded. Governor Tanner rushed troops to the scene in an endeavor to restore order. The matter was settled in November, 1898, when the operators and the miners met in a conference presided over by a member of the board and signed an agreement calling for payment of the original scale price. All this warfare and bloodshed would have been averted had the operators fulfilled their promise to abide by the board's decision when the case was first arbitrated. Governor Tanner cited the board's findings as strengthening his belief that the mine operators had done their men a great moral wrong.<sup>1</sup>

A case may be cited in which a radically different situation resulted. In November, 1899, a strike occurred at the Story and Clark piano and organ factory in Chicago, which soon developed into a lockout of all the piano and organ workers in the city. The union petitioned for arbitration by the state board, but the employers refused to join in the petition. The board therefore conducted a formal investigation and made recommendations which were accepted by the employers but refused by the workers on the ground that formal recognition of the union was not provided for. The business agent of the union appealed to the Convention of the American Federation of Labor, which directed Mr. Samuel Gompers and Mr. John B. Lennon, president and treasurer respectively, to investigate the matter. After making their investigation, these gentlemen reached a decision identical with that of the state board. The workers, however, held out several weeks longer for formal recognition of their union. The Executive Council of the American Federation of Labor, after examining the testimony before the board, adopted a resolution expressing the opinion that the board's conduct of the case had been fair and its decision consistent with the facts involved.<sup>2</sup>

<sup>1</sup> This is in a signed statement given to the press on November 24, 1898. See Illinois State Board of Arbitration, *Fourth Annual Report* (1899), p. 28.

<sup>2</sup> Illinois State Board of Arbitration, *Fifth Annual Report* (1900), p. 38.

PRINCIPLES USED IN REACHING DECISIONS  
IN ARBITRATED CASES

In the opinion of the writer, the decisions of the board in various arbitrated cases have been marked by justice and common sense. The board has taken into consideration all the factors in the situation and has refrained in large degree from following ill-considered self-imposed principles.

## I. PRINCIPLES USED IN DETERMINING WAGES

1. In two cases wages were raised so that they would equal the rate prevailing elsewhere in the district. One of these involved coal operators and miners in a fairly homogeneous mining district;<sup>1</sup> but in the other case the wages of carpenters and painters in East St. Louis were raised so as to conform to the wage scale in use in St. Louis. As regards the latter point, the board called attention to the policy generally adopted of paying substantially the same wages in communities adjacent to large cities as were paid in the cities themselves.<sup>2</sup>

In conformity with this principle the board in another case stipulated that if employers in the district in question later increased wages above the rate fixed, the companies involved in the dispute should increase wages to the same extent.<sup>3</sup>

Somewhat akin to these cases was one in which a wage increase was denied since the existing wage rate was already as high as that paid by competing companies.<sup>4</sup> Here as in numerous other cases competitive conditions were a controlling factor.

2. Increased cost of living accompanied by a general upward tendency of wages was used on two occasions to justify wage increases.<sup>5</sup> In another case no mention was made of increased cost of living, the award merely citing the fact that wages generally were rising.<sup>6</sup>

<sup>1</sup> *First Annual Report* (1896), p. 17.

<sup>2</sup> *Sixth Annual Report* (1901), p. 7.

<sup>3</sup> *Second Annual Report* (1897), p. 11.      <sup>4</sup> *Third Annual Report* (1898), p. 21.

<sup>5</sup> *Sixth Annual Report* (1901), p. 7; *Twelfth Annual Report* (1910), p. 37.

<sup>6</sup> *Fifth Annual Report* (1900), p. 17.

3. In one instance the board stated that wages should be as high as existing conditions would permit.<sup>1</sup> In another case it was stated that whenever the question of wages was submitted for decision the policy had invariably been to fix the rate as high as was consistent with "fair" profits to the employer.<sup>2</sup>

4. A concept of "fair" wages has been appealed to in at least two cases. The concept was not defined, but apparently meant customary or usual wages for the same type of work in the same locality.<sup>3</sup> In still another case the rate for coal-mining was lowered because the miners could still earn as much as miners in other localities working at a higher wage rate. The question of profitable operation of the mine was the controlling factor.<sup>4</sup>

5. Steady employment at a slightly reduced rate is preferable to irregular employment at a higher rate. The thing most desired is the largest possible aggregate earnings. This principle was used to justify a reduction in wages.<sup>5</sup>

6. Competitive conditions within the industry and the necessity of profits have been mentioned and considered in practically every decision involving the wage question. "No person or corporation can be justly expected to engage in a continuously unprofitable business, or to give employment to large bodies of men from purely philanthropic motives."<sup>6</sup> In making a wage reduction in one case, the board was careful to state that its action would not involve injustice to employers and workers in other parts of the state.

7. "Splitting the difference" according to the relative strength of the two parties was the method used in several cases although it was of course not stated in these terms.<sup>7</sup> In one case the board stated: "We make these recommendations with the knowledge that they involve mutual concessions."<sup>8</sup>

8. In several instances the board's decision required abolition

<sup>1</sup> *Ibid.*, p. 15.

<sup>2</sup> *Ibid.*, p. 30.

<sup>3</sup> *Fourth Annual Report* (1899), p. 26; *Fifth Annual Report* (1900), p. 15.

<sup>4</sup> *Fourth Annual Report* (1899), p. 31.

<sup>5</sup> *Fifth Annual Report* (1900), pp. 15-16.

<sup>6</sup> *Ibid.*, p. 30.

<sup>7</sup> Information from a private source.

<sup>8</sup> *Seventh Annual Report* (1902), p. 22.



of the truck system and the coupon system<sup>1</sup> of wage payment, reduction in rents charged for "company houses," reduction in prices charged for powder and oil, and semi-monthly payment of wages. In one case where the board conducted an investigation and made a formal recommendation upon application by the employees, it recommended that a contract be abolished which in practice enabled the employer to keep his employees in complete subjection on penalty of losing 10 per cent of their wages at the end of the year.<sup>2</sup> All of these requirements by the board were greatly to the advantage of the workers, but were merely practical applications of a reasonable concept of justice.<sup>3</sup>

## II. PRINCIPLE USED IN FIXING THE HOURS OF LABOR

The board took the position that shortening of the hours of labor should accompany the development of industry and that whenever a case was presented involving only a question of hours, all doubt should be resolved in favor of the shorter day.<sup>4</sup>

## III. ATTITUDE TOWARD ORGANIZATION OF WORKERS

The board approved organization of workers into unions and recognition of such unions by the employers. Employers organize among themselves and workers should have the same right.<sup>5</sup>

## IV. ATTITUDE TOWARD TRADE AGREEMENTS

The board was heartily in favor of joint agreements between employers and employees, and was loath to disturb any such agreement. The burden of proof was heavily on the side of the party requesting a change by order of the board.<sup>6</sup>

<sup>1</sup> Under the coupon system the employer required the worker to accept all or part of his wages in coupons which would be redeemed in cash only at a discount.

<sup>2</sup> *Eighth Annual Report* (1903), pp. 8-9.

<sup>3</sup> One must not assume from the foregoing enumeration of principles that the board used only one principle in any given decision. As a matter of fact most decisions involved the use of several principles.

<sup>4</sup> *Eighth Annual Report* (1903), p. 3.

<sup>5</sup> *Seventh Annual Report* (1902), pp. 17-19.

<sup>6</sup> *Fourth Annual Report* (1899), pp. 20-22; *Sixth Annual Report* (1901), p. 5. Since most of the arbitrated cases come in this period, it has been convenient to make citations to the few remaining cases in this enumeration of principles, rather than elsewhere. Arbitration was a feature of this period, not of later periods.

1901-4.—During the first six years of its existence the board appears to have been fairly active, but with its reorganization in 1901, under the leadership of Mr. Frederick W. Job, a period of vigorous activity covering a period of about four years was begun. The board seemed to appreciate the importance of gaining and holding the confidence of all classes, especially the employers and workers, and in 1901 held frequent meetings in Chicago at which employers and labor representatives were present on invitation by the board. As a result of these efforts, its effectiveness was greatly increased. It acquired the confidence it sought and was able to secure its admission into, and to act as mediator in, many disputes, even though one or both parties had declared emphatically that they had “nothing to arbitrate.”<sup>1</sup> With a view to increasing its efficiency in Chicago, the board in 1903 established a branch office in that city, with Mr. Luke Grant, assistant secretary, in charge. This brought the board into closer touch with the labor situation in Chicago.<sup>2</sup>

In this period the board was successful in forty and unsuccessful in twenty-two reported cases in which it offered its services as mediator. Only three cases were arbitrated, and the award was accepted in each case. Employees applied for arbitration in six other cases, but the employers would not join in the application. Formal investigations were made in three cases, in one of which its recommendations were accepted by both parties, the employers refusing in the other two cases.

A great deal of the effectiveness of the board in this period resulted from the aid of certain newspaper reporters of Chicago who prepared the way for action by the board in many cases. Many of the cases handled by the board were minor cases where some obscure employer was involved in difficulties with an equally obscure union. Labor reporters on the newspapers at this time gave a great deal of publicity to the board's work in these minor cases.

The board was, however, instrumental in effecting settlement of several important strikes. In June, 1902, it obtained a settle-

<sup>1</sup> *Seventh Annual Report* (1902), pp. 7-10.

<sup>2</sup> *Eighth Annual Report* (1903), p. 2.

ment of the Stock Yards Teamsters' strike, which was the most violent labor disturbance since the Pullman strike of 1894. Several hundred people were injured during the riots, many being clubbed by the police.<sup>1</sup> Another serious labor disturbance occurring about the same time was the strike of the recently organized department store drivers of Chicago. The board brought about a settlement after two or three days' effort.<sup>2</sup> The strike of freight handlers employed by railroads entering Chicago was the most serious labor disturbance of the year from the standpoint of the number of men involved and its effect upon the commercial and transportation interests and the general public. There were between eight and nine thousand men on strike, and the total cost was conservatively estimated at \$10,000,000. It was settled through intervention by the board after being in progress ten days. Mr. John G. Shedd, of Marshall Field and Company, speaking for the business interests of the city, said, "[We] are thankful to the State Board of Arbitration for its timely interference."<sup>3</sup> Letters of appreciation of its efforts in other strikes were also received by the board. The board deserves part of the credit for bringing about a settlement of the great Chicago street railway strike of November, 1903. This was by far the most important strike in 1903 in which the board took action. Important labor disputes which the board was unable to settle in this period were the strike of machinists employed by the Allis-Chalmers Company, and the strike of over 500 employees of the Kellogg Switchboard and Supply Company. Both of these strikes were attended by much violence.

1905-26.—After this period of activity and success, a period of hibernation set in which has continued, except for a brief burst of

<sup>1</sup> *Seventh Annual Report* (1902), p. 47.

<sup>2</sup> *Ibid.*, p. 42. The good impression made upon the employers by Mr. Job in this strike is shown by the fact that somewhat later he was appointed secretary of the employers' association involved in the strike. Mr. Job was not interested in arbitration for its own sake, but looked upon his job as a stepping-stone to one carrying a higher salary. It is understood that he received four times as much from the State Street department stores as he had been receiving for his services on the board.

<sup>3</sup> *Chicago Chronicle*, July 17, 1902, quoted in *Seventh Annual Report* (1902), p. 75.



activity during the years 1918 and 1919, until the present day. In its eleventh report the board stated that "it has been the practice of the board to play a waiting game and watch developments closely, rather than seek to interfere where there was a possibility of the contestants getting together and settling their own differences."<sup>1</sup> In the twelfth report the board showed a disinclination to pry its way into disputes where its tendered services were not received by both parties with open arms. In reporting one case it said: "While neither side refused positively to accept the services of the board, it was evident that neither side was anxious to conciliate at the time" (p. 21). It appears that the board made no further attempts to get into the struggle. It apparently took the attitude that it had done its duty when it first tendered its good offices, and since it was rebuffed once there was no need to try again. This is in great contrast to the methods used in previous years, and goes far to explain the uniform ineffectiveness of the board in this period. In its eleventh report it undertook to give "a brief concrete history of the labor movement in the State and the relations obtaining between employers and employees in different lines of industry, rather than a detailed account of the actual work of the board" (p. 1). Although a large number of strikes are discussed, specific mention of the board's efforts is made in only three or four cases. The board had really done practically nothing, but this fact cannot be deduced with certainty from the reports themselves: one might reasonably assume that the board itself wrote them out of its own knowledge and experience. The real intention was, of course, to obscure the board's inactivity by this method; but a little reflection will convince one that if the board had been at all active in the disputes discussed, it would surely have mentioned the fact in its reports inasmuch as self-effacement is generally not practiced by any kind of state board in making reports to the governor and the General Assembly. As a matter of fact, the eleventh and twelfth reports were written by Mr. Luke Grant, who at the time was not otherwise connected with the board but who possessed a very extensive knowledge of labor troubles in Chicago and Illinois and

<sup>1</sup> *Eleventh Annual Report* (1908), p. 1.



consequently could write reports which admirably served the board's purpose.

From 1906 to 1910 there were only two members on the board, and they lived down-state. This is one reason why no cases in which the board was active were reported from Chicago from 1906 to 1908, and why there were so few Chicago cases from 1908 to 1910. Another reason lies in the fact that the board was not active anywhere, either in Chicago or down-state. In its twelfth report the board seemed very proud of one arbitrated case which was reported under the heading: "Adjustment of Wage Dispute between Railroads in Chicago Switching District and the Brotherhood of Railroad Trainmen by State Board of Arbitration." It appears that the board took no initiative to get into this dispute but merely happened to be called upon to act. The railroads had offered to submit the question to arbitration either under the federal law or under the Illinois law, and the switchmen chose the latter (p. 33). Since there were only two members on the board at the time, the governor appointed Mr. Charles Piez, a prominent Chicago manufacturer, to serve as third member in this dispute. The records of the board for the period 1910 to 1914 have been lost, and no reports were made for these years. The next three reports discussed a great many labor disputes which the board apparently took no hand in adjusting. The 1915 report tells of one case where the board took no action on an appeal by the mayor of East Peoria for intervention in a dispute in that city because the mayor had failed to give the names and addresses of the parties involved (p. 36). Here the board was clearly unwilling to go out of its way or to use extralegal methods to settle a dispute. The 1918 report gave no data concerning the board's action. Aided by the general desire to keep industry going during the war period, the mediators were able to bring about the settlement of numerous disputes. During the year ending June 30, 1919, they claimed success in twenty-two cases, while failing in eleven. No detailed data were given for the following year, but they asserted that they had handled 125 cases. Detailed reports are given for the six years ending June 30, 1926, but very little was accomplished. During the period from 1905 to

1926 the board failed to effect a settlement in practically every important labor dispute. It was ineffective in the Chicago Teamsters' strike of 1905, and also in the Printers' Eight-Hour strike of the same year. Nothing was accomplished in the coal strike of 1906. The board made no effort to intervene in the great 1910 coal strike until directed to do so by the governor two months after the strike was begun, but failed when it did act. It failed in the great steel strike of 1919, the packing-house strike of 1921, and other strikes of importance. It is fair to state, however, that some of these strikes were interstate in character, and hence were of such great scope that state boards could not achieve success.

#### TABULAR SUMMARY

The accompanying tables present certain data concerning the board's activity during the period since its creation in 1895. Table VI shows the board's action and success in cases arbitrated, mediated, and investigated during the years 1895 to 1926. In this period the board served as arbitrator in eighteen cases, in fourteen of which its decision was accepted by both parties. Of twenty-two cases in which one party applied for arbitration and the other refused to join in the application, the employers refused in eighteen and the employees in four. All arbitrated cases occurred in the first fifteen years of the board's history.

The board attempted to serve as mediator in 205 cases. In 171 of these cases it acted on its own initiative, while its services were requested by the employees and employers in 29 and 5 cases, respectively. Of the 205 cases, the board was successful in 126 and unsuccessful in 78 cases. In many of the 126 successful attempts, the board does not deserve the entire credit for bringing about a settlement. In tabulating the data, it was given credit for settling a case if a settlement was reached after it acted even though its efforts had very little influence. There were a number of cases of this nature.

Seven cases were investigated with formal recommendation as to a proper basis of settlement. Of these 7 cases, 6 were investigated on application by the employees and 1 on application by the em-

**TABLE VI**  
**CASES ARBITRATED, MEDIATED, AND INVESTIGATED BY THE ILLINOIS STATE BOARD OF ARBITRATION,**  
**BY YEARS, 1896 TO 1926\***

Type of Action Taken	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1910	1914	1915	1916	1918	1919	1920	1921	1922	1923	1924	1925	1926	Total
Arbitration																											
Application by both parties...	1	2†	2§	2	4	2	1	1	1	1			1	1													18
Decision accepted by both parties	1	1	1	1	3	2	1	1	1				1	1													14
Decision repudiated by employers				1																							1
Decision repudiated by employees			1		1																						2
Application by employees but refusal by employers	5	1	1	1	1	1	3	1	2	2																	18
Mediation				3	1																						4
On initiative of board†	5	4	4	11			27	13	21	7	2	4	5	6	10			33									205
Requested by employees†	3	4	4	11			23	10	15	7	2	4	4	5	7			23									171
Requested by employers†	2						4	3	4					1	3			8									29
Successful	4	3	3	10			18	9	12	4					1			2									5
Unsuccessful	1	1	1	1			9	4	9	3	2	4	5	3	8			11									78
Investigation with formal recommendation																											7
On application of employees				1	2	1	2	1																			6
On application of employers				1	1	1	2	1																			1
Recommendations adopted by both sides																											2
Recommendations rejected by employees																											2
Recommendations rejected by employers				1																							3
Total cases in which board took action.....	11	7	8	15	6	3	29	16	22	9	3	4	5	6	10			33									14

\* Years given are years reports were made. Data are compiled from *Annual Report* of the Illinois State Board of Arbitration.

† Notification by either party considered equivalent to request by that party.

‡ Report in one arbitrated case not given.

§ In one case the employees withdrew and hearing and decision not given.

|| In one case Chairman Job acted as third member of an arbitration board. The decision hinged on his vote.

¶ Initiative of board assumed unless it is evident from report that board was called in.

\*\* One case still pending when report was made.

ployers. The board made no investigation on its own initiative. Its recommendations were adopted by both parties in two cases, but rejected by the employees in two cases and by the employers in three. All investigated cases occurred in five consecutive years beginning with the period covered by the 1898 report.

Table VII shows the board's success in dealing with disputes classified according to issues involved. For the 31-year period, in 114 cases in which wages, hours, and working conditions were involved, the board was successful in effecting a settlement in 83 and unsuccessful in 31 cases. Of 50 cases in which the issue involved was recognition of the union, the open or closed shop, or membership in unions, the board was successful in only 15 cases. The only period in which the board had much success in dealing with the latter type of dispute was the period 1901 to 1904, when it obtained settlement in 10 out of 24 cases.<sup>1</sup> Following this period a differently constituted board complained of the fact that the problem of open versus closed shop had come to the fore and that in such cases arbitration and mediation was impossible.<sup>2</sup>

In Table VIII, an attempt is made to show the relation between the duration of a strike or lockout before the board attempted to intervene, and the length of time required by the board to effect a settlement once it had taken action. In a great many cases no figures are given for either of these matters, and the results are consequently obscured. It seems, however, that in cases in which the board was successful, its success generally came during the first week of its work, and considerably less frequently in the second week. In cases that were not of long standing, this was probably due to the fact that rancorous feeling had not yet developed; but in long-standing cases, the parties were probably worn out by the struggle and the board's action merely presented a welcome opportunity to make peace. Owing to the fact that in about half the cases in which the board was successful during the first week of

<sup>1</sup> In the table, these four years are covered by the reports for the years 1902, 1903, and 1904. The 1902 report covered the period from March 1, 1901, to June 30, 1902, and the 1904 report covered the eighteen months ending December 31, 1904.

<sup>2</sup> *Tenth Annual Report* (1905), p. 1.



its efforts no facts are given as to the previous duration of the strike or lockout, no definite conclusion can be drawn as to whether the board was more successful when it intervened early in the dis-

TABLE VII

RELATION BETWEEN ISSUES INVOLVED AND SUCCESS OF THE ILLINOIS STATE BOARD OF ARBITRATION IN ADJUSTING DISPUTES, BY YEARS, 1896 TO 1926\*

YEAR†	ISSUES INVOLVED			
	Wages, Hours, Working Conditions		Recognition of Union, Open or Closed Shop, Membership in Union	
	Successful	Unsuccessful	Successful	Unsuccessful
1896.....	4	1	1	1
1897.....	5	1	.....	.....
1898.....	6	2	.....	.....
1899.....	10	4	2	.....
1900.....	3	2	.....	1
1901.....	3	.....	.....	.....
1902.....	15	4	5	6
1903.....	8	1	1	4
1904.....	9	5	4	4
1905.....	3	1	1	4
1908.....	.....	2	.....	.....
1910.....	1	3	.....	1
1914.....	.....	1	.....	2
1915.....	2	.....	1	2
1916.....	1	4	.....	1
1918.....	.....	.....	.....	.....
1919.....	.....	.....	.....	3
1920.....	.....	.....	.....	.....
1921.....	2	.....	.....	.....
1922.....	.....	.....	.....	3
1923.....	.....	.....	.....	1
1924.....	1	.....	.....	.....
1925.....	5	.....	.....	1
1926.....	5	.....	.....	1
Total.....	83	31	15	35

\* Data are compiled from *Annual Report* of the Illinois State Board of Arbitration.

† Years given are years reports were made.

pute than late. It seems likely, however, that the earlier the board took action the more success it achieved. In more than half of the cases of failure, no data are given concerning the previous duration

of the dispute. From the cases in which data are given no definite conclusion can be drawn, but it appears that the board was unsuccessful in a smaller percentage of cases in which it took early action.

ATTITUDE OF EMPLOYERS, EMPLOYEES, AND PUBLIC TOWARD  
THE BOARD OF ARBITRATION, AND CONCLUSIONS

While the process of modifying the arbitration law was going on, the opinion of organized labor was undergoing a radical change.

TABLE VIII

LENGTH OF TIME UNDER WAY IN RELATION TO TIME REQUIRED BY THE  
ILLINOIS STATE BOARD OF ARBITRATION TO EFFECT SETTLEMENT OF  
STRIKES AND LOCKOUTS, 1896-1926\*

STRIKE OR LOCKOUT UNDER WAY	TIME REQUIRED TO EFFECT SETTLEMENT							Total
	Less Than One Week	One Week But Less Than Two	Two Weeks But Less Than Three	Three Weeks But Less Than Four	Four Weeks and Over	Not Stated	Unsuc- cessful	
Less than one week.	13	8	1	2	4	.....	14	42
One week but less than two.....	4	.....	1	.....	.....	.....	6	11
Two weeks but less than three.....	1	1	.....	.....	1	.....	2	5
Three weeks but less than four.....	.....	.....	.....	.....	.....	.....	1	1
Four weeks and over	7	2	.....	.....	2	1	15	27
Not stated.....	22	5	1	4	6	26	43	107
Total.....	47	16	3	6	13	27	81	193

\* Data are compiled from *Annual Report* of the Illinois State Board of Arbitration.

It will be recalled that before the law was passed in 1895, labor organizations were practically unanimous in favoring an arbitration law, even one of the compulsory kind. By 1898, however, a change had taken place. Although President Hinman, of the Illinois State Federation of Labor, favored a law compelling both employers and employees to submit to the State Board of Arbitration such differences as they could not themselves settle, the delegates to the convention repudiated his stand by passing a resolution in

which they protested "most emphatically" against the enactment of any law having for its purpose the compulsory settlement of labor disputes, on the ground that such a law would tend to destroy the power of the trade union movement.<sup>1</sup> In the same year the *Chicago Federationist*, organ of the Chicago Federation of Labor, voiced its opinion as follows:

It is a question whether compulsory arbitration would be to the advantage of the trade unions of the state. Compulsory arbitration in certain circumstances would mean a lowering of the standard of living obtained by organized labor; and this should not be permitted. Compulsory arbitration would involve more than appears on the surface, and we think the matter should be given more careful consideration. Voluntary arbitration is as far as the labor organizations should go in an effort to secure justice without having to fight for it.<sup>2</sup>

In 1903, President Menche, of the Illinois State Federation of Labor, stated: "We favor arbitration, but only after conciliation has absolutely failed, and then voluntary arbitration only, entered into by both the organized workers and their employers, the award to be honorably and faithfully adhered to by both sides."<sup>3</sup> A comparatively recent statement emanating from the Illinois State Federation of Labor expressed concern about the widening scope of arbitration laws originally enacted for the purpose of enabling employers and workers to enter upon voluntary arbitration. The State Federation opposed the enactment of House Bill No. 648 by the 1923 General Assembly, since the bill would have had the effect of bringing within the jurisdiction of the courts even such arbitration agreements as were often part of agreements between employers and organized labor covering wages and working conditions.<sup>4</sup> Organized labor at present tolerates the State Board of

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1898 Convention*, pp. 6-7, 19.

<sup>2</sup> *Chicago Federationist*, October 8, 1898. Early in the 1899 session of the General Assembly the subject of compulsory arbitration was seriously considered by several members of both houses, but no bill of that nature was introduced. See Illinois State Board of Arbitration, *Fourth Annual Report* (1899), p. 16.

<sup>3</sup> Illinois State Federation of Labor, *Proceedings of the 1903 Convention*, p. 19.

<sup>4</sup> Illinois State Federation of Labor, *Weekly News Letter*, May 5, 1923.

Arbitration since it is innocuous anyway, but unequivocally opposes compulsory arbitration.

Was there any justification for the disposition on the part of many persons during the early history of the Board of Arbitration to regard it as having no interest to serve except that of the employee?<sup>1</sup> The fact that previous to the passage of the arbitration law the workers had been poorly organized, had suffered defeat in many contests with the employers, and consequently had favored the enactment of a law which presumably would alleviate their condition, appears to lend credence to this belief. But it must be remembered that in the last analysis the law was passed because the people generally had come to favor a law designed to prevent disastrous strikes such as the Pullman strike of 1894. Furthermore, the workers were becoming better organized, and it will be recalled that articulate bodies such as the Illinois State Federation of Labor went on record, as early as 1898, as being definitely opposed to compulsory arbitration, and appeared to be only mildly favorable to non-compulsory state intervention.

A careful analysis of awards made by the board and of its other activities leads the writer to believe that from the practical standpoint the belief that the board was interested only in serving the employee was also unjustified. The board held ideas as to unionism and trade agreements which of course were disapproved of by open-shop and anti-union employers, but in its wage decisions there was apparent a sincere endeavor to take all factors into consideration and to reach a decision which would be fair to the employer and the employee alike. At the time the arbitrated cases were before the board, wage rates and the cost of living were both rising; so the fact that the board's awards frequently involved a slight increase in wages does not imply a biased attitude on the part of the board, since an increase in living costs is generally assumed to necessitate an upward revision of wage rates.

After the period of inactivity set in, people either forgot the board's existence, or ignored it or made light of its efforts when it

<sup>1</sup> This attitude was complained of by the board in its *Third Annual Report* (1898), p. 10.



did attempt to do something.<sup>1</sup> When the state attempts to intervene in labor disputes, far more depends upon the personnel of the agency set up for the purpose than upon the law under which that agency operates. Even though the law be inadequate, a board can accomplish much if composed of intelligent, upright, energetic, and tactful men. But a board composed of men possessing the opposite qualities can achieve very little success even though the law be an excellent one. In Illinois, the law is satisfactory, but the board for the most part has consisted of small-fry politicians who lacked the qualities making for confidence and esteem.<sup>2</sup> The success Illinois has experienced has varied more with the type of men on its board than with any other factor or factors. At the present time it is probably true that a large majority of the people, including both employers and employees, are unaware of the existence of the Division of Mediation and Conciliation of the Illinois Department of Labor. If they do know of its existence, they much prefer to get along without its aid.

<sup>1</sup> *Report* (1915), pp. 42-43.

<sup>2</sup> The salary paid has been insufficient to attract competent men even though the governor wished to appoint men of that type.

## CHAPTER V

### WAGE LEGISLATION

Persons who possess a considerable accumulation of property or of savings are for the time being comparatively independent of regular income in the form of wages. The workingman, however, seldom attains this fortunate position. If wages are not regularly received in sufficient amounts, he and his family very quickly reach the point of distress. Since the workingman is usually dependent for his living upon his daily wage, he is usually the weaker party in dealings with persons to whom he is indebted as well as with persons indebted to him; consequently, the state has seen fit to pass laws protecting him from exploitation either by creditors or by debtors. Laws of this kind take various forms: wages up to a certain amount may be exempt from attachment and garnishment by creditors; assignment of future wages may be prohibited or surrounded by safeguards; oppressive activities of money lenders may be curbed; the time, medium, and basis of wage payment may be regulated; deductions from wages may be prohibited; claims for wages may be secured by property of the employer either on the same basis as other claims, or as preferred claims; minimum wage rates may be fixed. This chapter traces the development of legislation of this kind as enacted or proposed in the state of Illinois. Some of this legislation, while of great practical importance, is scarcely within the scope of this study and consequently will be dealt with very briefly. Laws of this type are those dealing with loan sharks, credit unions, and exemption of homesteads from attachment.

#### MECHANICS' LIENS AND WAGE PREFERENCE

Laws on the subject of mechanics' liens were passed very early in the state's history. A law approved January 13, 1825, gave persons furnishing labor or materials for the erection or repair of any house or building a lien to secure payment of the same upon

both the house or building and the lot or tract of land on which it was situated. Suit was to be brought within three months after the time payment was due under the contract for such labor or materials.<sup>1</sup> Beginning with 1863, a series of laws was passed which granted liens to sub-contractors, workmen or other persons who, in conformity with the terms of the contract between the owner of the lot and the original contractor, performed labor or furnished materials in building or repairing any house or building in certain enumerated counties of the state. The total amount of such liens in any given case was not to exceed the amount stipulated in the contract to be paid by the owner to the original contractor. The act was extended to other counties in 1865 and 1867, and to the whole state in 1869.<sup>2</sup>

In 1917, a law was passed providing that persons furnishing material, labor, etc., to any contractor having a contract for a public improvement in Illinois should have the right to a lien on the money, bonds, or warrants to be paid to the contractor.<sup>3</sup>

Various laws have been passed giving laborers the right to liens for particular kinds of work. Since 1845, men working on boats and vessels of all kinds have had the right to liens on account of work done.<sup>4</sup> A law passed in 1861 gave laborers and persons furnishing materials to railroad corporations existing under the laws of Illinois the right to liens upon all property of such corporations for work done or materials furnished.<sup>5</sup> In 1872, the right to liens upon railroad property was extended to persons furnishing labor or materials to a railroad contractor. Liens under this act were not to take

<sup>1</sup> *Laws of 1824-25*, p. 101. A law of 1861 (*Laws of 1861*, p. 179) granted liens in the case of implied as well as expressed contracts.

<sup>2</sup> *Laws of 1863*, p. 57; *Laws of 1865*, p. 91; *Laws of 1867*, p. 133; *Laws of 1869*, pp. 255 and 258.

The act of April 5, 1869, included work of beautifying or ornamenting buildings as well as constructing, altering, and repairing them; and in cases of suits brought, instructed the court to allow attorney fees to the extent of \$5, if tried before a justice of the peace, and \$20, if tried in a court of record. This law was secured through the efforts of Chicago trade unions (*Centennial History of Illinois*, III, 372).

<sup>3</sup> *Laws of 1917*, p. 566.

<sup>4</sup> *Revised Statutes, 1845*, p. 71.

<sup>5</sup> *Laws of 1861*, p. 142.

priority over existing liens. Whenever any suit brought under the act was determined in favor of the plaintiff, the court was to allow attorney's fees to the extent of \$5, if before a justice, and \$20, if in a court of record.<sup>1</sup>

As early as 1882, a county mine inspector pointed out the need that existed for a law granting miners the right to a lien upon all coal mined as well as upon all the other property of the operator. He stated that unscrupulous men sometimes formed a corporation and began mining coal; but instead of paying the miners their wages, claimed the corporation was insolvent and the individual stockholders not liable. In other cases, mines were leased, operated for a while and the coal immediately sold without the lessees having paid wages to the miners.<sup>2</sup> A law was passed in 1895 which gave laborers or miners performing labor in opening and developing any coal mine the right to a lien on the mining property for the value of their labor. Such liens were given the same standing and were to be enforced in the same manner as mechanics' liens.<sup>3</sup>

Other laws giving liens to particular classes of laborers were those of 1907, 1917, and 1921, which respectively granted to horse-shoers liens on animals shod, to garage keepers liens on motor vehicles stored or repaired, and to persons expending labor, skill, or materials on any chattels liens on such chattels. The right to liens for cement work was granted by a law enacted in 1913.<sup>4</sup>

Except for the acts of 1845 and 1861 giving preference to wages of boatmen and railroad laborers, respectively, the early lien laws gave no preference to wage claims. In fact, a law enacted in 1839 expressly stated that no preference should be given to the creditor whose contract was first made, but that all creditors should share in the proceeds of sales made under the law in proportion to their several amounts.<sup>5</sup> In 1895, however, a law was passed giving pref-

<sup>1</sup> *Laws of 1871-72*, p. 279.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Second Biennial Report* (1882), p. 62.

<sup>3</sup> *Laws of 1895*, p. 242.

<sup>4</sup> *Laws of 1907*, p. 375; *Laws of 1917*, p. 567; *Laws of 1921*, p. 508; *Laws of 1913*, p. 400.

<sup>5</sup> *Laws of 1839-40*, p. 147.



erence to laborers' liens for general building work.<sup>1</sup> No preference was given as between contractors having first liens; but if the contractor was a person who had a claim for mechanical or other labor personally performed by him, his claim for as much as two weeks' wages was to have preference to the extent of 10 per cent of the proportionate value of the entire work completed up to the date of the last day's work of such labor. Laborers working for sub-contractors or for sub-sub-contractors were also given similar preference. For all over two weeks' pay, the laborer was to prorate with materials men and other contractors.<sup>2</sup> An amendment passed in 1903 removed the two weeks' limitation and provided that all claims for wages were to be paid in full before anyone else was paid.<sup>3</sup>

<sup>1</sup> *Laws of 1895*, p. 225. The bill was drafted by Mr. Julius A. Coleman, of Chicago. See *Eight-Hour Herald* (January 16, 1896).

A law passed in 1891 (*Laws of 1891*, p. 162) contained a provision giving persons performing mechanical or other labor a lien to an amount equal to 10 per cent of the proportionate value of the contract completed up to the date of his last day's work. Upon receiving notice from the laborer, the owner was permitted to withhold money from the original contractor and pay it to the laborer. If the amount due the contractor and the 10 per cent provided above were not sufficient to pay all claims in full, claims for mechanical and other labor were to be paid in full before other claims were paid.

<sup>2</sup> Other important changes were also made. Under this law, if a man improved his wife's property with her knowledge and consent, the lien existed the same as if she had made the contract. This was a great improvement over the old law, which did not permit a lien under such circumstances. Under the previous law, if a house were built by mistake on a lot belonging to some other party than the man building the house, no lien could be obtained, but the new law granted the right to a lien on the house.

<sup>3</sup> *Laws of 1903*, p. 236, sec. 15.

Section 21 of the 1903 act gave sub-contractors the right to a lien even though the original contractor had released all liens and the contract between the owner of the property and the contractor waived all liens. This provision was declared unconstitutional in 1911 by the Illinois Supreme Court in the case of *Kelly v. Johnson*, 251 Ill. 135, on the ground that it deprived the owner of property without due process of law. The General Assembly in 1913 amended this section so as to meet the objections of the court. The new section stated that if the legal effect of any contract between the owner and contractor was that no lien or claim might be filed or maintained by anyone, such provision should be binding; but the only admissible evidence thereof as against a sub-contractor or materials man was proof that notice

## CLAIMS FOR WAGES

Under the laws of the state prior to 1883, wages were not preferred claims in case of assignments of property by insolvent debtors. Before 1877, such debtors might even assign their property to the exclusion of employees' claims. A law passed in 1877, however, provided that every provision in any assignment made in the state providing for payment of one debt or liability in preference to another should be void, and that all debts and liabilities within the provisions of the assignment should be paid pro rata from the assets thereof.<sup>1</sup> In 1883, this law was amended by giving preference to all claims for wages of any laborer or servant, earned within a period of three months next preceding the making of the assignment. Claims for costs, commissions, and expenses of assignment were given first preference, and after they were paid, wages under the foregoing limitations were to be given preference over all other claims.<sup>2</sup>

A similar statute passed in 1887 provided that in case property were seized upon by court process, debts owing to laborers or servants, not to exceed \$50 in amount, which accrued by reason of labor performed within six months next preceding such seizure, were to be paid before any other claims were paid. If there was insufficient property to pay wage claims in full, the amount available was to be prorated among them.<sup>3</sup> An amendment passed in 1895 removed the \$50 limitation and the six months' time limitation, thus making all wages preferred claims.<sup>4</sup>

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of such provision had been given to him or proof that the agreement to that effect had been filed with the county recorder of deeds (*Laws of 1913*, p. 400).

Section 17 of the 1903 act was also declared unconstitutional by the Illinois Supreme Court. This section permitted a lienholder to recover a reasonable attorney's fee in cases where a mechanics' lien was enforced. The court held that the provision was special legislation in that it granted to holders of mechanics' liens a right which was denied to other lienholders, such as landlords, agistors, and carriers. *Manowsky v. Stephan*, 233 Ill. 409 (1908).

<sup>1</sup> *Laws of 1877*, p. 120, sec. 13.

<sup>2</sup> *Laws of 1883*, p. 53.

<sup>3</sup> *Laws of 1887*, p. 308.

<sup>4</sup> *Laws of 1895*, p. 242.

A law of 1877 provided that personal property was not to be exempted from

In 1927, the Illinois State Federation of Labor secured the enactment of a law which it considers to be very important. It provides that the stockholders of bankrupt corporations shall be liable for their share of two weeks' unpaid wages in addition to their liability for unpaid stock. The share of wage-earners, as general creditors, in the assets of the corporation in question, is to be deducted from the two weeks' unpaid wages, the stockholders being liable for the balance. Provision is made for getting at the property of such stockholders as are solvent if some prove to be insolvent.<sup>1</sup>

The law with reference to payment of wage claims in the administration of estates has gradually become more favorable to the wage-earner. A law passed in 1887 was the first to give preference to such claims. Wages due a servant or laborer for labor performed for the decedent within six months previous to death were made a claim of the sixth class.<sup>2</sup> An amendment to this law, passed in 1889, placed wages due common laborers and household servants in the third class. They were preceded by funeral expenses and the necessary costs of administering the estate, and the widow's share; and ranked with expenses of last illness (excluding the physician's bill, which ranked fifth).<sup>3</sup>

#### RECOVERY OF ATTORNEY'S FEES

An act passed in 1889 provided that whenever a mechanic, artisan, miner, laborer, servant, or employee successfully brought suit for wages, the court before which the case was tried was to allow the plaintiff a reasonable attorney fee in addition to the amount of wages found due and owing. In justice court the amount allowed for such fee was to be not less than \$5, and in the county or

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attachment or execution when the debt was for the wages of any laborer or servant (*Laws of 1877*, p. 102). In 1895, a law was passed which included in judgments for wages amounts due the laborer for the services of his horse or team. Nothing was to be exempt from such judgment (*Laws of 1895*, p. 173).

<sup>1</sup> *Laws of 1927*, p. 361. The Associated Employers of Illinois was one of the organizations which strongly opposed the enactment of this law.

<sup>2</sup> *Laws of 1887*, p. 2.

<sup>3</sup> *Laws of 1889*, p. 1. In 1921, the physician's bill was advanced to the third class (*Laws of 1921*, p. 1).

circuit court not less than \$10.<sup>1</sup> This law was upheld by the Illinois Supreme Court in 1895 in the case of *Vogel v. Pekoc*, 157 Ill. 339. The court held that the law was not in conflict with the constitutional provision prohibiting special or class legislation, since it applied to all persons similarly engaged.<sup>2</sup>

#### GARNISHMENT

In 1872, an act was passed exempting from garnishment the wages of the head of a family, residing with the same, to an amount not exceeding \$25. In case the garnishee had in his possession more than \$25 of the defendant's wages, judgment was to be given only for the excess over that amount.<sup>3</sup> In 1879, the exemption was raised to \$50.<sup>4</sup> No change was made thereafter until 1897, when the Case garnishment law, exempting only \$8 per week, was passed.<sup>5</sup>

This act was bitterly condemned by organized labor. It was said to be "iniquitous and oppressive," and "not a fair or liberal law within the intent and meaning of the constitution of the State." It had "given birth to a horde of money-lending sharks" who preyed upon "the misfortunes and necessities of the poor."<sup>6</sup> The *Bloomington Trades Review* stated that the law had been chiefly productive of a cheap grade of collection agencies.<sup>7</sup> Mr. David Ross, secretary of the Illinois Bureau of Labor Statistics, stated that the Case garnishment law had resulted in a great deal of harassing litigation,

<sup>1</sup> *Laws of 1889*, p. 362.

<sup>2</sup> In the case of *Manowsky v. Stephan*, cited above, the court pointed out that the amounts sued for by wage-earners under the act of 1889 were usually so small that to deny them the right to recover attorney's fees would, in effect, deny their right to recover their wages. Oftentimes the attorney fee would be larger than the wages at stake. Suits under the mechanics' lien law of 1903, however, were apparently assumed to be in a different category; but the court relied upon the constitutional provision against class legislation to justify its adverse decision in the mechanics' lien case.

<sup>3</sup> *Laws of 1871-72*, p. 465.

<sup>4</sup> *Laws of 1879*, p. 175.

<sup>5</sup> *Laws of 1897*, p. 231.

<sup>6</sup> Illinois State Federation of Labor, *Proceedings of the 1900 Convention*, p. 11.

<sup>7</sup> January 13, 1899.



especially in Chicago, and that some creditors had come to realize that they had received very little benefit from the law since attorneys and justices of the peace received most of the sums recovered.<sup>1</sup> The Bureau of Labor Statistics became interested in securing the repeal of the law, but considerable opposition had to be overcome before the General Assembly was led to enact a law in 1901 raising the exemption to \$15 a week, and requiring the employer to pay to the wage-earner, directly, exempt wages not exceeding \$15 a week. The latter provision would serve to secure to the wage-earner and his family at least the amount of exempt wages, and thus enable them to live. This law as well as its predecessors applied only to wage-earners who were heads of families and living with the same. If the amount of wages subject to garnishment did not equal the costs of the garnishment proceedings, the remaining costs were to be paid by the person bringing such proceedings, not by the wage-earner whose wages were garnisheed.<sup>2</sup> Mr. Ross stated that he believed this law gave Illinois "the most liberal wage exemption law in the United States."<sup>3</sup> Minor amendments to this law were passed in later years.<sup>4</sup>

In 1905, an act was passed<sup>5</sup> which subjected the salary and wages of certain public employees to garnishment and attachment with the same effect that the salary or wages of any other person were liable to such process. This act was declared unconstitutional in 1906 in the case of *Badenoch v. City of Chicago*, 222 Ill. 71, on the ground that although the act purported to be complete in itself, it was in effect an attempt to amend the general statutes

<sup>1</sup> Association of Officials of Bureaus of Labor Statistics of America, *Proceedings of the Seventeenth Annual Convention* (1901), pp. 160-61.

<sup>2</sup> *Laws of 1901*, p. 214.

<sup>3</sup> Association of Officials of Bureaus of Labor Statistics of America, *Proceedings of the Seventeenth Annual Convention* (1901), p. 161.

<sup>4</sup> *Laws of 1923*, pp. 413 and 414; *Laws of 1925*, p. 427.

An amendment passed in 1923 (*Laws of 1923*, p. 413) changed the wording of section 14 so as to exempt from garnishment the wages or salary for services of an employee (instead of wage-earner) who is the head of a family and residing with the same. The amount exempt from garnishment was not changed.

<sup>5</sup> *Laws of 1905*, p. 285.

respecting garnishment and attachment without complying with section 13 of article 4 of the constitution, which provided that "no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act." It was also unconstitutional in that it was a special law which did not apply to all municipal corporations of the same class created under the laws of the state.

A law passed in 1891<sup>1</sup> prohibited, under penalty of a fine of from \$10 to \$50, the transfer out of the state of any claim for debt to be collected by proceedings in attachment, garnishment, etc., with the intent to deprive resident debtors of their exemption rights under the laws of Illinois. Non-residents sued in Illinois in garnishment proceedings affecting wages earned outside the state were permitted the same exemption as was at the time allowed to them by the laws of the state of their residence. This provision would prevent the transfer of garnishment suits to Illinois from states having garnishment laws more favorable to the wage-earner. An act of 1903 provided that wages earned and payable outside the state should be exempt from attachment or garnishment in all cases where the cause of action arose outside the state unless the defendant in the suit was personally served with process.<sup>2</sup>

Two other types of laws may be mentioned in this connection. The first exempts from attachment to the extent of \$1000 the residence owned by a householder with a family (*Laws of 1851*, p. 25; *Laws of 1871-72*, p. 478; *Laws of 1873*, p. 99). The second exempts the property and earnings of a married woman from interference by her husband or his creditors (*Laws of 1861*, p. 143; *Laws of 1869*, p. 255).

#### ASSIGNMENT OF WAGES

If the wage-earner is to have effective exemption of wages from attachment and garnishment, he should be prevented from making an assignment of his future wages. An act was accordingly passed in 1905 which provided that (1) assignments of wages or salary should not be valid unless made in writing and acknowledged before a justice of the peace; (2) no assignment of wages by a married

<sup>1</sup> *Laws of 1891*, p. 141.

<sup>2</sup> *Laws of 1903*, p. 217.

person should be valid unless also signed by the assignor's husband or wife, as the case might be; (3) assignments of wages or salary to secure a loan tainted with usury were absolutely void; (4) assignments of wages or salary to be earned in whole or in part more than six months after the assignment was made were absolutely void.<sup>1</sup>

This act was declared unconstitutional in 1909 on the ground that it included with wage-earners, who, as a class, might lawfully be made the subject of a protective act of this character, all persons employed at a salary, without reference to the amount of salary received. The provision, which declared void an assignment of wages or salary given as security for a loan tainted with usury, was unconstitutional, in that the law of the state made no such provision with reference to other instruments or conveyances given to secure usurious debts.<sup>2</sup> Further legislation on the subject of wage assignment is mentioned in the next section.

#### LOAN SHARKS

More especially in times of unemployment or in emergencies when the workingman and his family need ready money with which to buy the necessities of life, persons in the business of making small loans at high interest rates on the security of chattel mortgages or wage assignments levy their toll.<sup>3</sup> About 1908, the Chicago Legal Aid Society, through its attorney, M. B. Wellington, investigated the activities of loan sharks in Chicago. It was found that there were 125 of these offices in Chicago with a combined capital conservatively estimated at \$3,500,000. On the basis of an average loan of \$50, assuming that this entire capital were always active, about 70,000 persons were steadily paying toll through the windows of these offices. The interest charged on salary or wage loans ranged from 10 to 20 per cent, and averaged close to 12 per

<sup>1</sup> *Laws of 1905*, p. 79.

<sup>2</sup> *Massie v. Cessna*, 239 Ill. 352 (1909).

<sup>3</sup> The Illinois General Assembly in 1857 passed a law permitting an interest rate of 10 per cent per annum (*Laws of 1857*, p. 46). This maximum was reduced to 8 per cent in 1879 and to 7 per cent in 1891 (*Laws of 1879*, p. 185; *Laws of 1891*, p. 150). The maximum rate pawnbrokers might charge was fixed at 3 per cent per month in 1879 (*Laws of 1879*, p. 219).



cent per month.<sup>1</sup> During each session of the General Assembly, the Chicago Legal Aid Society attempted to secure the enactment of a law regulating the activities of these money-lenders, and in 1917 it was at last successful.

The law of 1917 required persons making loans of \$300 or less, and charging more than 7 per cent interest per annum, to obtain a license from the Department of Trade and Commerce. Persons licensed under the act might loan sums not exceeding \$300 and charge not more than 3.5 per cent a month interest. Carefully drafted provisions dealt with wage assignments and heavy penalties were provided for violations of the law.<sup>2</sup>

This law was immediately attacked in the courts, but its constitutionality was upheld in 1917 in the case of *People v. Stokes*, 281 Ill. 159. The court held that the act was not invalid as making an unlawful classification or as improperly abridging the right of contract, but was a valid exercise of the police power of the state to regulate the business of making small loans and remedy the existing evils connected therewith.<sup>3</sup>

The state has also passed laws designed to remedy these evils, not so much by way of regulating loan sharks directly as by encouraging the formation of wage-loan associations which will free the worker from dependence upon such companies.

<sup>1</sup> *Charities and the Commons*, December 12, 1908, pp. 407-8.

<sup>2</sup> *Laws of 1917*, p. 553. In 1925, the penalty provisions were amended in the interest of more effective enforcement (*Laws of 1925*, p. 454).

<sup>3</sup> It is said that the law has practically done away with loan sharks (*Annals of the American Academy*, CXXIV [March, 1926], 35). On the other hand, there is evidence that they are still doing business. A case recently reached a jury in Chicago where a railway employee had paid interest on a \$15 loan at the rate of 240 per cent a year for a period of a year and a half, and found at the end of that time that he still owed \$20. This is said to be the first case in which a suit on wage assignments reached a jury in Chicago. It was made possible by the action of the railroad company in resisting a garnishment proceeding against its employee. The legal aid department of the United Charities intervened in behalf of the loan victim and got the facts before a jury. The man was discharged from his obligations to the loan shark company. It was expected that the verdict would serve as a precedent for many pending cases, and probably would result in freeing thousands of borrowers from the clutches of loan sharks (*Chicago Tribune*, June 7, 1927).



In 1913, a law was passed permitting the organization of wage-loan corporations for the purpose of lending small sums of money on wages and salaries to persons needing such loans. The rate of interest charged was not to exceed 3 per cent a month and the earnings on the capital stock of such corporations were not to exceed 6 per cent per annum.<sup>1</sup>

This law was a step toward the elimination of loan sharks, and provided some relief from their disreputable practices, but "until a weekly pay day is established and the newspapers cease to accept loan shark advertisements, it is but one of the steps of the ladder of social reform."<sup>2</sup>

In 1925, a carefully drafted law was passed which provided for the organization of credit unions among persons having a common bond of occupation or who live within a well-defined neighborhood or community, whose purposes it should be to promote thrift among their members and to create a source of credit for them at legitimate rates of interest for provident purposes. Interest on these loans was not to exceed 1 per cent a month on unpaid balances.<sup>3</sup>

#### LAWS TO PREVENT EXPLOITATION OF COAL-MINERS

During the last quarter of the nineteenth century, the coal miners of Illinois devoted a great deal of attention to securing the abolition of certain abuses practiced by many operators, which amounted to severe imposition in some cases, and in other cases even to a state of servitude. The chief points at issue were the weighing of coal, the employment of checkweighmen, the question of screening coal or payment for all coal mined, and the truck store system.<sup>4</sup>

<sup>1</sup> *Laws of 1913*, p. 199.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Labor Legislation of the 48th General Assembly* (1913), p. 9.

<sup>3</sup> *Laws of 1925*, p. 255.

<sup>4</sup> The Truck Store Act, passed in 1891, applied to manufacturing as well as to mining. It is discussed under a separate heading although the coal miners were the chief group affected and were chiefly responsible for its passage.

## WEIGHING OF COAL

Much trouble and ill-feeling were frequently engendered between the miners and operators by the question of weighing coal. Since miners were usually paid according to the weight of coal mined, the fact that the operator furnished the scales, employed the weighman and kept the accounts, gave him ample opportunity to defraud systematically the miners of part of their wages. Furthermore, the weighman, himself, might favor some miners while discriminating against others. Then, of course, the scales might weigh inaccurately regardless of the operator's or weighman's motives. In order to correct the abuses which grew up under this system, three types of preventives were enacted into law, namely, permitting miners to employ checkweighmen, requiring the weighman and the checkweighman to take oath that they would correctly weigh the coal, and requiring mine inspectors to test the scales.

The first act of this series was passed in 1883.<sup>1</sup> It required operators of coal mines doing business on and shipping coal by railroad or by water to provide scales for the purpose of weighing all coal hoisted, the weight so determined to be considered the basis upon which wages of persons mining the coal were to be computed. Miners were permitted to employ a checkweighman at their own expense, whose duty it was to balance the scales, see that the coal was properly weighed, and keep a correct account of the same. For this purpose, the checkweighman was to have access at all times to the beam box of the scale while weighing was being performed. The man employed as checkweighman was required to be an employee in the mine where the coal to be weighed was produced, and a citizen of the state and county where the mine was situated.

An act passed in 1885<sup>2</sup> amended that of 1883 in some important respects. Weighmen and checkweighmen were required to make affidavit that they would accurately weigh and faithfully keep a

<sup>1</sup> *Laws of 1883*, p. 113.

<sup>2</sup> *Laws of 1885*, p. 221. This act did not require the checkweighman to be an employee of the mine.

true record of all coal hoisted from the mine, and a new section was added declaring that all contracts for the mining of coal, in which weighing of coal as provided for in the act should be dispensed with, should be null and void.

The latter provision met with disapproval by the courts. Whereas the Supreme Court had declared that the former act was intended to protect miners who were paid according to the weight of coal dug by providing a correct basis for determining the weight upon which wages should be computed, and did not apply when there was a contract for the payment of wages on some basis other than the weight of coal dug,<sup>1</sup> the amendment of 1885 was intended to compel the operator to pay wages solely according to the weight of coal mined. The court declared that it was not within the power of the legislature to single out mine operators and provide that they should bear burdens not imposed upon other property owners and prohibit them from making contracts which other property owners or employers might lawfully make. Such legislation could not be sustained as a valid exercise of the police power. The court therefore held this part of the act unconstitutional.<sup>2</sup>

In an attempt to avoid this constitutional barrier the General Assembly in 1887 passed a new act and repealed the old.<sup>3</sup> This act required the operator of every coal mine shipping coal by rail or water at which the miners were paid by weight of coal mined to provide suitable and accurate scales for the weighing of all coal hoisted or delivered from such mines. Miners at a given mine were again permitted to employ one of their number to serve as checkweighman. Both weighman and checkweighman were required to make affidavit that they would faithfully perform their duties, and these affidavits were to be conspicuously posted at the place of weighing.

<sup>1</sup> See *Jones v. People*, 110 Ill. 590 (1884). The court, in this case, said that it could not ascribe to the legislature the enactment of a law, "unless it be plainly declared," whose purpose was to require all mining of coal to be paid for on the basis of weight (p. 594).

<sup>2</sup> *Millett v. People*, 117 Ill. 294 (1886).

<sup>3</sup> *Laws of 1887*, p. 235.

An amendment passed in 1891<sup>1</sup> omitted the requirement that the checkweighman must be an employee of the person operating the mine, and a citizen of the state and county in which the mine was situated. The operators fought this bill since they believed that if the miners were permitted to hire someone as checkweighman who was not already an employee of the mine, they might import an agitator to serve as checkweighman who would be quartered upon the premises of the operator for the purpose of stirring up strife between the operator and the miners. In reply the miners stated that as the law then read, the operator was able to impose his wishes upon the miners in regard to the selection of a checkweighman, whereas when the miners employed a man to work for them they should be allowed as much liberty in making a selection as the operator took in choosing a weigh-boss for the company.<sup>2</sup>

In 1896 these acts were declared unconstitutional by the Illinois Supreme Court.<sup>3</sup> The court held that the fact that the product of coal mines was shipped by rail or water did not form a reasonable basis for statutory regulations for the weighing of the coal of such mines different from those applying to all other mines; and that the act took away freedom of contracting by the parties for the ascertainment of the weight of coal except by a certain method.

In order to avoid these additional constitutional difficulties, the revision of the mining code enacted in 1899 provided that the operator of every coal mine where miners were paid by the weight of their output should provide suitable and accurate scales for weighing such coal.<sup>4</sup> A correct record was to be kept of all coal

<sup>1</sup> *Laws of 1891*, p. 170.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Sixth Biennial Report* (1890), pp. 401, 420.

<sup>3</sup> *Harding v. People*, 160 Ill. 459 (1896). The United States Supreme Court upheld an Arkansas statute in the case of *McLean v. Arkansas*, 211 U.S. 539 (1908), in which very much the same issue was raised as in the case of *Harding v. People*, and that of *Millett v. People*, discussed on the preceding page.

<sup>4</sup> It should be noted that this law applied to all such mines, not merely to those shipping coal by rail or water.



weighed and this record was to be open to inspection as in the previous act. The provisions of the previous act concerning weighmen and checkweighmen were also retained.<sup>1</sup>

The first law providing for state inspection of mine scales was enacted in 1895.<sup>2</sup> State mine inspectors were required to test all coal mine scales in their respective districts at least once every six months, and were to direct the operator to adjust at once any defects or irregularities which prevented correct weighing of coal. The revised law of 1899 required mine inspectors, upon written request of any mine operator or of ten coal-miners employed at any one mine, to test scales against which complaint was directed. If he found that the scales weighed incorrectly, he was to call the attention of the mine operator to the fact, and forbid further operation of the mine until the scales were adjusted. For the purpose of making these tests the inspector was furnished by the state with a complete set of standard test weights. These provisions have not been changed since 1899.

#### GROSS WEIGHT LAW

The question as to whether operators should be required to pay miners on the basis of all coal mined or merely for lump coal mined was a serious one during the eighties and the nineties. It was the custom for the operator to pay the miner only for such coal as would pass over screens used in cleaning the coal at the mine although the operator sold as much of the screenings as he could. The miners claimed that the proportion of coal which went through the screens, and for which they received no pay, was much larger than was necessary to clean the coal thoroughly for the

<sup>1</sup> The law as it now stands is the same as that of 1899 except that the operator of such mines is required to provide one thousand pounds of United States standard weights for testing his scales, and that the weighman and checkweighman are both required to be citizens of the United States. These changes were made in 1919 (*Laws of 1919*, p. 656). The former provision was requested by the miners as early as 1899. They felt that the provisions of the 1899 revision regarding testing of scales did not sufficiently protect their interests (Illinois State Federation of Labor, *Proceedings of 1899 Convention*, p. 26).

<sup>2</sup> *Laws of 1895*, p. 255.

market.<sup>1</sup> A further difficulty arose because of the fact that there was no uniformity either as to the space between the bars of different screens in use, or as to the superficial area of the screens. The spaces in use varied from one-half inch to two and one-half inches, while the superficial area varied from fifty to one hundred and thirty square feet. It is obvious, then, that there was great variation as regards the quantity of the miners' product that was removed by the process of screening.<sup>2</sup>

There was some disagreement among the miners as to the proper procedure to be followed in order to secure payment for merchantable screenings. Some wanted a uniform screen with seven-eighths inch spaces established by law. A screen of this size was regarded as the standard screen and was used by all the larger companies.<sup>3</sup> In 1883 a bill was introduced into the General Assembly requiring the use of screens of uniform size for screening coal at all mines. The operators succeeded in defeating the bill by arguing that the character of the coal and the condition in which it came to the surface varied so greatly in different parts of the state that to compel the use of a uniform screen would work injustice upon many operators and men.<sup>4</sup> The operators claimed that some variation in screens was needed in order that a uniform grade of lump coal might be produced for the common market. As a matter of fact, however, the character of screens used was not always adjusted to this end: those with greatest capacity for reducing the miners' output were sometimes found when there was apparently least occasion for them.<sup>5</sup> While this bill was acceptable to miners whose employers used screens larger than the standard, it was not acceptable to those whose employers used the standard screen. This group wanted a definite recognition of their interest in all screenings. Some miners desired a law requiring the operators to pay for whatever pro-

<sup>1</sup> Illinois Bureau of Labor Statistics, *Third Biennial Report* (1884), p. 418.

<sup>2</sup> The Illinois Bureau of Labor Statistics estimated that the amount screened out varied from 5 to 25 per cent. See *Fourth Biennial Report* (1886), p. 552.

<sup>3</sup> *Ibid.*

<sup>4</sup> Illinois Bureau of Labor Statistics, *Third Biennial Report* (1884), p. 418.

<sup>5</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 550, 554.

portion of screenings they were able to sell.<sup>1</sup> The weight of opinion, however, finally came to favor a law requiring coal to be weighed before being screened, and requiring the gross weight thus obtained to form the basis upon which wages should be computed.<sup>2</sup>

The *Sixth Biennial Report* of the Illinois Bureau of Labor Statistics contains a protest and argument by the Illinois coal operators against adverse legislation which was pending in the Thirty-seventh General Assembly, and a reply by the Illinois coal miners to the arguments advanced by the operators. The operators protested against the gross weight or screen bills because the change involved would interfere with the operation of the mines, would discriminate against the careful and skilful miner, and offer a premium upon unskilful, careless, and dishonest work. They alleged that such bills rested upon pure sentiment instead of cogent reasoning.<sup>3</sup> The miners replied that nothing had contributed so much to create discord and friction between the miner and operator as the practice of screening, or paying only for lump coal. Payment on the basis of the weight of coal after it had passed over screens of unstandardized size simply allowed the employer to determine the price to be paid for the miner's labor regardless of any agreement made as to the price per ton. Even in those parts of the state where screens were smallest, contracts which the miners were forced to sign expressly stated that the use of a greater width than that specified in the contract should not be construed as a violation of the contract. The statement that payment on the basis of gross weight would be equivalent to a premium on dishonest mining was met by the claim that practical miners always tried to produce the greatest quantity of lump with the least percentage of slack since that method would insure the greatest return. It was asserted that the operator often used breakers in order to increase the quantity of screenings that might be sold; but the miners of course received

<sup>1</sup> In 1879, one demand made by the miners of Braidwood was payment for all saleable coal mined. See Illinois General Assembly, House, *Report of Special Committee on Labor* (1879), pp. 58, 61.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 549-54.

<sup>3</sup> Pp. 397-99.



no wages for mining it.<sup>1</sup> The operators declared that the price paid for mining was adjusted to care for the screenings and that payment for all coal mined would necessitate a reduction in the rates per ton and might operate to the injury of the good miner. The miners, however, claimed that the tendency would be to displace incompetent miners and thus raise the standard of workmanship and eventually the price of mining.<sup>2</sup>

Aside from the truth of these contentions, the miners succeeded in securing the enactment of a gross weight law at the 1891 session of the General Assembly. The act<sup>3</sup> declared it to be unlawful for the operator of any coal mine whose miners were paid upon the basis of the quantity of coal which each should mine and deliver to the operator to take any portion of the same by any process of screening, or by any other device, without fully accounting for and crediting the same to the miner. All coal was to be weighed in the pit cars, two thousand pounds to the ton, before being dumped into screens or chutes.

The next year, however, the Illinois Supreme Court declared the act unconstitutional on the ground that it deprived coal mine operators of the property right of making contracts, without due process of law.<sup>4</sup> This decision caused great discontent among the miners: the remedy they thought they had obtained proved worthless and the old abuses continued. The miners claimed with some

<sup>1</sup> *Sixth Biennial Report* (1890), pp. 413-15.

<sup>2</sup> *Fourth Biennial Report* (1886), p. 550. Some years later a reason that might have been used in favor of a Gross Weight Law, but which was not used so far as is known to the writer, cropped forth from an unexpected source. The Occupational Disease Commission reported that after the introduction of machine-mining and after the Gross Weight Law had forced the operators to pay for all coal mined, the miners did less overhead pickwork in an effort to obtain coal in large lumps, and consequently assumed a more natural position while working. These two causes were thought to have gone far toward eradicating miners' nystagmus. See *Report of the Occupational Disease Commission* (1911), p. 155.

<sup>3</sup> *Laws of 1891*, p. 170.

<sup>4</sup> *Ramsey v. People*, 142 Ill. 380 (1892). In the case of *McLean v. Arkansas*, 211 U.S. 539 (1908), the United States Supreme Court upheld an Arkansas statute when a similar issue was raised.



truth that screens at many mines were manipulated to their disadvantage. The operators gave as an excuse for changing the screens that competition with other mines justified and even necessitated such action. The men further claimed that many operators were encouraging an excessive use of powder which increased the amount of screenings as well as extorted from the miners a larger portion of their wages to pay for the powder used. These grievances and others led to a strong organization of miners and the inauguration of the strike of 1897, which resulted, among other things, in the operators conceding the system of weighing and paying for coal on the basis of gross weight. In the meantime, the General Assembly enacted a law<sup>1</sup> which provided that operators should pay miners in lawful money of the United States for all coal mined and loaded into mining cars, including lump, egg, nut, pea, and slack, or such other grades as coal might be divided into, at such price as might be agreed upon by the two parties. Mine inspectors were charged with the duty of enforcing the law.<sup>2</sup>

This act was upheld by the Illinois Supreme Court<sup>3</sup> since it appeared

to have been the design of the legislature to eliminate from this Act the objectionable features of former acts by making contracts enforceable according to their terms, instead of making contracts for the parties. . . . [The provisions of this act] do not apply where there is a contract for the payment of compensation by different means or upon a different basis than that specified in the act.

The law was interpreted so broadly as to constitute no check upon the employer. The miners' union has been sufficiently strong to maintain its provisions by agreement with the operators, however, and there has been no reason for making it more restrictive by legislative enactment.

<sup>1</sup> *Laws of 1897*, p. 270.

<sup>2</sup> The coal miners' strike was continued after other portions of the competitive district resumed operations, because the miners demanded that the basis of settlement should conform to the provisions of this law (*Sixteenth Annual Coal Report* [1897], p. 165).

<sup>3</sup> *Whitebreast Fuel Co. v. People*, 175 Ill. 51 (1898).

When the miners and operators reached their agreement in 1897, the miners pledged that they would continue mining coal in the workmanlike manner that was possible when coal was undercut and sheared by hand, and that the use of powder should not be inordinate. For a time the adoption of the new run-of-mine system of wage payment did not result in a greater waste of coal,<sup>1</sup> but later the miners forgot their pledge. As had been feared by the operators, the new system did put a premium upon reckless and careless mining. The man who used the most powder and took the greatest chances, made the most money, but produced the poorest coal.<sup>2</sup> Just prior to 1900, a large decrease in percentage of lump coal mined occurred because of this change.<sup>3</sup> Instead of being about 80 per cent lump, it dropped to about 45 per cent.<sup>4</sup> One coal

<sup>1</sup> *Annual Coal Report* (1899), p. xix.

<sup>2</sup> "The Run of Mine System in Illinois," by A. Dinsmoor, in *Coal Age*, March 9, 1912, p. 705.

<sup>3</sup> The quality of coal produced in Illinois deteriorated to such an extent that Mr. Herman Justi, commissioner of the Illinois Coal Operators' Association, appealed to Mr. John Mitchell, president of the United Mine Workers of America, on July 19, 1901, to see what the national president of the miners' union could do in the way of securing a decrease in the proportion of fine coal produced and an improvement in the quality of lump coal produced in Illinois. He pointed out that at the time Illinois adopted the mine-run system of wage payment the operators were assured that the change would result in the employment of better miners and the production of better coal, but said that in spite of this assurance no one could dispute the fact that the quality of coal produced had greatly deteriorated. He stated that both state and local officials of the miners' union had made an honest, but futile, effort to secure an improvement in the situation. He was afraid that unless the national officers of the United Mine Workers of America succeeded in correcting the evils complained of, the Illinois coal operators would withdraw from the interstate joint agreement and that chaos would again rule the industry. Mr. Mitchell appealed to the officers and members of District 12 to carry out their side of the agreement in order that they might not only prove to the Illinois operators that the mine-run system had not lowered the standard of workmanship or caused deterioration in the quality of coal produced in Illinois, but also induce them to remain in the interstate joint convention and secure the abolition of the screen system in other states as well. (See Herman Justi, *Sundry Papers and Addresses on Labor Problems* [1906], pp. 34-40.) Mr. Mitchell's appeal effected no important improvement in the situation.

<sup>4</sup> "The Screening Problem in Illinois," by A. Bement, in *Coal Age*, June 1, 1912, p. 1105.

operator<sup>1</sup> characterized the law as "one of the most lamentable pieces of legislation imposed on the coal operators in the state of Illinois."<sup>2</sup> On the whole, the new system encouraged added refinement in coal preparation although it led to abuses in excessive shooting off the solid<sup>3</sup> and to the use of excessive amounts of powder, which unduly shattered the coal and at the same time increased the dangers of mining.<sup>4</sup>

#### TRUCK STORES

In newly established mining communities which have not reached the stage of economic maturity characterized by the establishment of stores of various kinds by individual proprietors, the truck, or company, store performed a useful function. Men who went to such communities had to have sources from which they could purchase food, clothing, and other commodities, and the company which owned, or which had at least established, the community, took over this function. Serious abuses, however, very quickly arose. The coal miners, being more particularly affected by the truck system,<sup>5</sup> led the attack against it, but were aided by the other labor groups of the state.

The truck system was pernicious in several ways. Companies which owned stores frequently charged exorbitant prices, much higher than was necessary in order to make a reasonable profit. The workers were compelled to buy from the company store either because there was no other store in the community, or because they would be discriminated against by their employer if they bought supplies at some competing store. Probably 30 per cent of the miners of the state were forced to buy at their employers' stores.<sup>6</sup>

<sup>1</sup> Francis S. Peabody, president of the Peabody Coal Co. of Chicago.

<sup>2</sup> *Coal Age*, May 24, 1913, p. 801.

<sup>3</sup> E. A. Holbrook and Thomas Fraser, *Screen Sizing of Coal, Ores and Other Minerals*, p. 7, published as *Bulletin 234*, U.S. Bureau of Mines.

<sup>4</sup> See Dinsmoor, *op. cit.*

<sup>5</sup> The only other classes which were affected to a significant degree were the bakers, furniture makers, and some laborers. See Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), p. 327.

<sup>6</sup> *Ibid.*, p. 327.

Even if the mining company did not maintain a store, the same abuse was practiced in other ways. Wages were paid in orders for goods upon certain merchants, to the exclusion of others. These merchants paid commissions for such business in consideration of the orders being redeemed in cash on pay day, and the miner had Hobson's choice of trading out his order at par with the dealer named and of course paying the prices asked, or of submitting to a discount at other stores which perhaps charged lower prices, while running the additional risk of jeopardizing his standing with his employer by so doing. Whether or not the company owned a store, it almost always sold powder and oil to the miners at unduly high prices. If the miner sought these supplies elsewhere, he not only lost time but also the good will of the operator.

The miner's plight was made even more serious by the fact that the interval between pay days was almost always at least one month, and instead of receiving his pay at the end of the month he was generally forced to wait until two weeks more had elapsed. In the meantime, he was compelled to resort to credit at the company store—his only source of credit—and was unable to free himself from this anomalous position. The company owed him wages, but he was compelled to go in debt to the company for the approximate amount of those wages. If the worker had received his pay in cash and at short intervals, he would have had some degree of independence.<sup>1</sup>

One of the chief grievances of the labor movement of the seventies was the truck system.<sup>2</sup> An anti-truck bill was passed in 1879, but it was vetoed by Governor Cullom on the ground that it was unconstitutional.<sup>3</sup> One of the reasons for the formation of the Illinois State Federation of Labor was the desire to secure the abolition of the truck system. The movement gradually gained strength and reached its culmination about 1891, when a bill to

<sup>1</sup> *Ibid.*, pp. 327-29.

<sup>2</sup> Illinois General Assembly, House, *Report of Special Committee on Labor* (1879), pp. 22 ff.

<sup>3</sup> Staley, *History of the Illinois State Federation of Labor*, quoting from *Illinois State Register*, February 12, 1885.



abolish the system was passed by the General Assembly and signed by the governor.<sup>1</sup>

This act made it unlawful for any person, company, corporation, or association engaged in any mining or manufacturing business in Illinois to operate or be interested in any truck store or scheme for furnishing supplies, provisions, etc., to its employees. The penalty for violating this provision was a fine of from \$50 to \$200 for each day such business was carried on. It was also made unlawful for employers to make deductions from the wages of their workmen, except for lawful money, checks, or drafts actually advanced without discount, and except for such sums as might be agreed upon between the employer and the employee for the maintenance of a hospital or relief fund for sick or injured employees. Any sums unlawfully deducted from wages might be recovered, together with reasonable attorney's fee, in suits at law.<sup>2</sup> Each offense was punishable by a fine of from \$50 to \$200, in addition to the civil remedy just mentioned. Nothing in the act was to affect farmers, farm laborers, or servants. The term "truck" was defined as the payment of wages otherwise than in lawful money, or otherwise than to the full amount earned by the employee.

In their arguments against the enactment of a truck-store law, the coal operators had asserted that such laws were unconstitutional and frivolous. They claimed that the practice of paying in store orders was of benefit both to the employee and to the employer. That the practice was advantageous to the operator is shown by the fact that often in times of severe competition the operator's sole source of profit was the company store.<sup>3</sup> So long as the system of paying wages six weeks after they were earned obtained, the operators apparently had a valid argument in their claim that

<sup>1</sup> *Laws of 1891*, p. 212.

<sup>2</sup> It should be noted that this provision would prevent the fining system which was becoming prevalent in Illinois following its adoption by many employers in the East. See Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 525-26.

<sup>3</sup> *Ibid.*, p. 329. Operators who did not operate such stores were opposed to the system, since profits from the sale of goods enabled their competitors to undersell them in the market. See *Third Biennial Report* (1884), p. 498.

truck stores, by granting credit, frequently saved the miner the expense of garnishment proceedings when other merchants who had granted credit to the miner garnisheed his wages. The fallacy of this argument lies in the fact that the system of paying in truck at infrequent intervals caused the abuse the truck system was said to alleviate. The operators asserted that anti-truck bills were unconstitutional in that they interfered with freedom of contract.

In their reply to these arguments, the miners stated that experience had forced them to regard the truck system as a menace to their rights and liberties.<sup>1</sup> The claim that no coercion was used to compel the employee to trade at the company store was declared to be absolutely groundless. In reply to the operators' assertion that other stores sold intoxicating liquors while company stores did not, the miners stated that "a man can poison his soul with the vile decoctions stored away in the drug corner of a company store just as readily, if not as cheaply, as he can in the lowest groggery in the land."<sup>2</sup>

The constitutionality of the anti-truck act was immediately attacked in the courts, and the contentions of the operators were upheld in the case of *Frorer v. People*, 141 Ill. 171 (1892). Sections 1 and 2, which prohibited the operation of truck stores, were declared unconstitutional on the ground that it was not competent for the legislature to select operators of mines or manufacturers, and provide that they should bear burdens not imposed upon other owners of property, and prohibit them from making contracts which it was competent for other owners of property or employers of labor to make. The police power was said to be limited to enactments having reference to the comfort, the safety, and the welfare of society, and under its guise a person could not be deprived of a constitutional right. Under it, an adult person of sound mind, laboring under no legal disability, cannot be deprived of the right

<sup>1</sup> It is interesting to note that Senator Crawford, one of labor's most hated enemies, opposed the anti-truck bill on the ground that it was unfair to the wage-workers. See *The Rights of Labor*, May 2, 1891.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Sixth Biennial Report* (1890), pp. 399-400; 415-17.

to make contracts in respect to labor and the acquisition of property, under the pretense of giving such person protection. "Theoretically there is among our citizens no inferior class."<sup>1</sup>

The individualistic philosophy embodied in this decision is in line with that of other decisions of the same period. In the words of Professor Roscoe Pound, it "probably establishes the high-water mark of academic individualism."<sup>2</sup>

In a further effort to prevent the abuses connected with the company-store system, a law was passed in 1895 which provided that any time check or store order given as compensation for labor performed should be redeemable, at the option of the person to whom it was given, in bankable currency. Violations of the act were punishable by a fine not exceeding \$100, or confinement in the county jail not to exceed 30 days, or by both fine and imprisonment.<sup>3</sup>

The constitutionality of this law was not attacked in the courts, probably for three reasons. In the first place, company stores evaded its provisions. If an employee went to the office and asked for his pay, the clerk would throw down a certain amount of cash but immediately withdraw it and substitute a store order in its place. It was to be inferred that the employee had purchased the

<sup>1</sup> In 1901, the United States Supreme Court upheld a Tennessee truck-store act in the case of *Knoxville Iron Co. v. Harbison*, 183 U.S. 13.

The rest of the Illinois act (prohibiting deductions from wages) was declared unconstitutional in 1904 in the case of *Kellyville Coal Co. v. Harrier*, 207 Ill. 624, on the ground that it was class legislation and an interference with freedom of contract.

An act of 1903 (*Laws of 1903*, p. 198) prohibited a corporation doing business in Illinois from withholding from any of its employees any portion of their wages beyond the regular pay day under guise or pretext that such wages would later be given or presented to such employee as a present or gratuity for satisfactory services or on condition that he remain in its employ until some future date designated by the corporation. All wages were to be paid in full by the corporation on its regular pay day. Nothing in the act was to be construed as preventing any corporation from contracting for retention of part of its employees' wages for the purpose of giving its employees insurance, hospital relief, etc.

<sup>2</sup> *Yale Law Journal*, XVIII, No. 7 (May, 1909), p. 454 (475), on "Liberty of Contract."

<sup>3</sup> *Laws of 1895*, p. 263.



store order with the money.<sup>1</sup> A second reason is that the truck system was in process of decay as the mining towns grew from mere hamlets to good-sized cities offering a much wider range of employments. Other stores were established and the economic justification for the truck store no longer held. The third cause of its decline may be found in the growth of the miners' union in Illinois.

This law was repealed in 1917 by an act which prohibited employers from paying wages in scrip unless it was redeemable, upon demand at the office of the company, at face value in lawful money of the United States.<sup>2</sup>

#### TIME OF WAGE PAYMENT

In the previous section an attempt was made to show why frequent pay days are essential to the independence of the wage-earner. During the eighties, one of the demands of organized labor was weekly payment of wages.<sup>3</sup> As in the case of the movement to abolish the truck system, this movement gained in momentum and resulted in the passage of an act in 1891. This act required corporations in a rather inclusive list of industries to pay every week the wages earned by their employees to within six days of the regular weekly pay day. In case of trial for violation of the act, the corporation was not to be allowed any defense other than a valid assignment of wages, a valid set-off against the same, the absence of the employee when wages were paid, a breach of contract by the employee, or a denial of employment. No assignment of future wages was valid if made to the corporation from which such wages were to become due.<sup>4</sup>

When this bill was before the General Assembly, the operators claimed that it was an unwarranted attempt to invoke the police

<sup>1</sup> See testimony of Mr. John Mitchell, president of the United Mine Workers of America, in *Report of the (U.S.) Industrial Commission*, XII (1901), 43.

<sup>2</sup> *Laws of 1917*, p. 363.

<sup>3</sup> In 1879 and 1889, monthly payment bills failed of passage.

<sup>4</sup> *Laws of 1891*, p. 213. The language of this act followed rather closely that of the Massachusetts weekly payment law which had been enacted a few years previously.



power of the state and a denial of the right of free contract.<sup>1</sup> The Illinois Supreme Court, in the case of *Braceville Coal Co. v. People*, 147 Ill. 66 (1893), held that since the act was applicable only to certain corporations and not to all corporations for pecuniary profit or to individuals, it deprived them of the right of liberty and property without due process of law. The court stated that the right to fix the time of wage payment was necessarily included in the right to contract, and whoever is restricted in this, the community at large remaining unrestricted, is deprived of liberty and property.

In 1895 and again in 1909, bills were introduced to provide for weekly payment of wages, but nothing was done in either case. A little later, the movement for more frequent pay days became one favoring payment of wages semimonthly. In 1913, all representatives of organized labor, especially those of the railroad brotherhoods, joined in demanding the enactment of a semimonthly pay day law.<sup>2</sup> The coal miners and the building trades had already secured it by collective bargaining, and in some cases the latter had secured weekly pay days. The railroads objected to such a law because of the added expense involved, but the committee representing the railroad employees countered this by presenting a statement, which was not refuted by the railroad managers, showing that the interest on deferred wages amounted to \$8,000,000 annually.<sup>3</sup> Governor Dunne urged the General Assembly to enact the law, since the monthly pay day had resulted in a money-lending business, tainted with usury and attended by

<sup>1</sup> Other arguments were also made. It was stated that the bill interfered with the customary way of doing business, and that more frequent pay days would be expensive. It was also asserted that more frequent pay days would increase the time lost and the proportion of wages spent in dissipation. See Illinois Bureau of Labor Statistics, *Sixth Biennial Report* (1890), p. 396.

<sup>2</sup> It is probable that the decision of the New York Court of Appeals in the case of *N. Y. C. & H. R. R. Co. v. Williams*, 199 N.Y. 108 (1910), upholding a New York law providing for the semimonthly payment of wages in cash by certain corporations, was partially responsible for a renewal of demands for such a law in Illinois.

<sup>3</sup> Illinois Bureau of Labor Statistics, *Labor Legislation of the 48th General Assembly* (1913), p. 9.

many hardships, among the working classes.<sup>1</sup> President E. R. Wright, of the Illinois State Federation of Labor, stated that some merchants, "doubtless looking forward to cash discounts on purchases," joined in the effort to secure its passage.<sup>2</sup> In order to lessen opposition to this bill by the railroad companies, the labor leaders allowed a "full crew" bill to fall by the wayside.<sup>3</sup>

The bill as enacted into law provided that every corporation for pecuniary profit engaged in any enterprise or business in Illinois should pay its employees semimonthly all wages or salaries earned by them to a day not more than eighteen days prior to the date of such payment. Employees who were absent on pay day or who for any reason were not paid at that time, were to be paid at any time thereafter upon six days' demand. Any employee leaving his employment or discharged therefrom was to be paid in full at any time upon three days' demand. Any attempt to secure exemption from the provisions of the act by special contract was declared illegal. Failure to pay each employee in the foregoing manner was made a separate offense, and was punishable by a fine of from \$25 to \$100.<sup>4</sup>

It will be noticed that this law, by including within its scope all corporations for private profit, avoided one of the constitutional difficulties surrounding the weekly payment act of 1891. Efforts were made in 1919 (H.B. No. 194) to extend the provisions of the act to partnerships, associations, firms, and individuals. The bill passed the House, but failed to receive a constitutional majority in the Senate. The law at present stands as originally enacted.

#### THE MINIMUM WAGE

Although a number of states, beginning with Massachusetts in 1912, enacted laws providing for minimum wages for women, the movement in Illinois has not advanced to this stage. In 1913, several bills were introduced into the General Assembly providing

<sup>1</sup> *House Journal*, 1913, p. 205.

<sup>2</sup> Illinois State Federation of Labor, *Proceedings of the 1913 Convention*, p. 41.

<sup>3</sup> Illinois Bureau of Labor Statistics, *op. cit.*      <sup>4</sup> *Laws of 1913*, p. 358.

for wage boards and minimum-wage commissions, under sundry names, whose duties it would be to determine and enforce minimum-wage rates for women and minors. The Senate appointed a special committee to investigate the "white slave" traffic, and this committee, after making an investigation, introduced a bill (S.B. No. 637) providing for an Industrial Commission which was to determine proper minimum wages for women and minors.<sup>1</sup> The bill was reported back to the Senate without recommendation as to passage, but with the recommendation that it be ordered to first reading. In 1913, a House joint resolution (No. 5) was also introduced which provided for a commission to investigate the matter of wages of women and minors and to report upon the advisability of establishing a board to determine minimum wages. No action was taken on any of these measures. The Progressive party, whose national campaign was led by former President Roosevelt, was the chief proponent of these measures in 1913.

Except for the year 1919, when strong efforts were made to secure the enactment of an eight-hour law for women following the report of the Illinois Industrial Survey, minimum-wage bills were introduced into the General Assembly from 1913 to 1921. In 1915, the Women's Trade Union League made a strong fight for a minimum-wage law as well as for an eight-hour law for women, but no legislation was secured. After this failure, the Women's Trade Union League concentrated its efforts on bills for reduction of hours of women's work and paid little attention to the minimum wage. In 1921, the National Consumers' League endeavored to push a minimum-wage bill through the General Assembly but likewise failed. The movement has died out completely, at least for the time being, because of the unfavorable decision of the United

<sup>1</sup> The Vice Committee's first recommendation was the enactment of a minimum-wage law, prohibiting the payment of less than a living wage to any woman or minor except during a period of apprenticeship not exceeding six months. The committee reached the "firm conclusion that the enactment of the proposed minimum-wage law is the essential initial step in the intelligent treatment of the problems under survey." Illinois General Assembly, Senate, *Report of the Senate Vice Committee* (1916), p. 52.

States Supreme Court in the District of Columbia minimum-wage case.<sup>1</sup>

Except for the year 1915, the Women's Trade Union League and the trade-union movement, which follows the leadership of the league on such matters as this, have not made serious efforts to secure the enactment of a minimum-wage law. The league considers its bills for a reduction of hours of labor for women of greater importance<sup>2</sup> and has found by experience that it is best not to try to push two measures through the legislature at the same time. When such an attempt is made, it is much more difficult to keep the legislators in line because they have a greater opportunity to vacillate in their support of labor's bills. The opposition to the minimum wage in Illinois has been led by the Associated Employers of Illinois and the Illinois Manufacturers' Association.

<sup>1</sup> *Adkins v. Children's Hospital*, 261 U.S. 525 (1923).

<sup>2</sup> It argues that if hours are shortened, the women workers will have more time and inclination to think about their condition and will then demand and secure higher wages.



## CHAPTER VI

### CONVICT LABOR

The problem of proper utilization of the labor of convicts has been before the people of Illinois during most of the history of the state. Trade unionists have been especially concerned about the matter because competition of convict labor with free labor has at times proved ruinous to certain occupational groups and has been contrary to the workingman's concept of justice. It has not seemed fair to the workingman that the state should employ criminals in ways that lower the standard of living of free and law-abiding workmen and their families. The various methods of utilizing convict labor followed in Illinois from the thirties to the nineties constituted one of the foremost grievances of the working class and at times overshadowed all others. Although the chief problems were solved about the opening of the present century, organized labor has been constantly on the alert since that time to prevent the employment of convicts in ways that might prove detrimental to free labor. Employers who were forced to compete with prison industries have frequently joined the workers in efforts to obtain relief.

In its efforts to employ convicts in ways that gave promise of being most advantageous to all parties concerned, Illinois has tried almost every conceivable system. It began by leasing the prison and its inmates to private individuals who assumed full responsibility for clothing, feeding, guarding, and disciplining the prisoners in return for the produce of their labor. A public function was thus delegated to private persons. Next came a short trial of the public account system under which public officials assumed control of the prisons, put the prisoners to work, sold the products in the open market, and turned over the proceeds to the state treasury. Then the contract system was given a trial. Under this system, the state retained control over the prisoners and assumed the

responsibility of caring for them, but contracted out their labor to manufacturers at a given rate per day. The contract system was continued in a different form (similar to the so-called "piece-price" system) after it was made illegal by a constitutional amendment. Contractors paid the state so much per unit of product turned out, but the rate was computed on the basis of the amount of time consumed in making a unit of product, that is, on the basis of a daily rate per convict. After this system was abolished there followed a short period during which the prisoners were employed solely in manufacturing goods for state use. The present system was then inaugurated. Goods are manufactured primarily for state use, but under certain conditions surplus products may be sold in the open market, that is to say, Illinois at present has a combination of the state use and the public account systems. We shall now trace these steps more in detail.

#### THE LEASE SYSTEM, 1839-67

The Illinois penitentiary was first established at Alton in 1831, and until 1839 the prisoners were employed in various ways within the prison walls and in the surrounding neighborhood. In 1839, the lease system was inaugurated, under which the lessee became responsible for the clothing, bedding, food, care, and restraint of the prisoners in return for the right to use their labor as he saw fit. The chief concern of the state was that it be relieved of all expense in connection with the penitentiary, and a clause to this effect was included in every lease.

This system became obnoxious to certain citizens of Alton, and in 1843 they sent a memorial to the General Assembly in which they complained of the "unjust and highly oppressive effect" which the competition of prison labor had upon the free labor of the community. It was stated that mechanics from the prison were to be found at work everywhere,

on our public landing, in our streets, our pork-houses, laboring on new buildings, and even in our forests cutting and hauling timber; and all this at a time when free laborers cannot obtain sufficient employment, even at the lowest rates, to protect their families from want and actual suffering.<sup>1</sup>

<sup>1</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), pp. 16-17.

This appeal brought no relief. From that time, however, the question of prison management arose at frequent intervals, and in 1861 a strenuous effort was made to abolish the lease system and to relieve the state from the power of a faction which had dominated not only the penitentiary but also the policy and politics of the state for about thirty years. Although this movement was defeated, a strong popular sentiment was aroused against the lease system.

In 1863, a commission to prepare a code of laws for the government of the penitentiary condemned in strongest terms the whole system of leasing the prison and its inmates for purely business purposes, merely to save the public purse. The General Assembly, however, again leased the prison; but public sentiment had become so strong that a Senate investigating committee was appointed at the next session of the General Assembly. It was disclosed that profits amounting to a quarter of a million dollars had been made by the lessees during the five years ending in 1863, and that the new lease had been secured through corrupt dealings between the lessees and certain members of the former legislature. Nothing, however, was done to correct the evils of the leasing system.

In the years immediately following the Civil War, a large increase in the number of convicts and serious disturbances in the business world drove the lessees into bankruptcy two years before the expiration of their lease. Mr. Samuel A. Buckmaster, who had control of the prison under a sublease,<sup>1</sup> said that the number of convicts was greater than could be profitably worked and that they were the worst class of convicts he had seen in thirty years. In using the term "worst" as applied to convicts, he meant "incapable of work"; for he went on to state that they had been sent from the counties as paupers, and were "wooden-legged, one-armed, broken down, in short really no men at all."<sup>2</sup> Out of a total of 1,021 prisoners, 300 had been wounded in the army or had been otherwise incapacitated. These men were evidently not "worth their keep." It was also stated that the goods produced in the prison

<sup>1</sup> From the beginning, prison leases were freely bought and sold.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), p. 26.

could not be sold and that credit was unobtainable with which to carry them. Furthermore, stone-masons had refused to lay prison-cut stone, and workmen in the packing-houses had refused to use prison-made barrels.<sup>1</sup>

#### STATE ACCOUNT SYSTEM, 1867-71

When the lessees of the prison were forced to surrender their lease, it became incumbent upon the state to take immediate measures regarding the management of the prison. A law was passed at the second special session of the General Assembly in 1867, which provided for a system of contracting out the labor of convicts, but permitting a trial of the public account system in certain contingencies. It was found to be impossible to secure satisfactory bids for the labor of the convicts, and the state was therefore compelled to take over the management of the prison. During a period of four years and five months in which the prison at Joliet was operated on the state account system, the loss was about \$300,000. An investigating committee stated that this loss was due to mismanagement and the general decline in prices which characterized the period, but stated that during the last year the loss was comparatively small and that during the last three months the institution had undoubtedly been self-sustaining.<sup>2</sup> Toward the close of this period the contract system was inaugurated.

#### CONTRACT SYSTEM, 1871-86

Under this system the state retained possession of the buildings and the custody of the prisoners, but contracted out to individuals or firms the labor of the convicts at a given rate per day. This system was financially successful, but was strongly challenged "by prison reformers upon humanitarian grounds; by the industrial classes upon economic grounds, and by an awakened popular sentiment as a practice of questionable public policy."<sup>3</sup>

The contract system was an object of condemnation by or-

<sup>1</sup> *Ibid.*, pp. 26, 27.

<sup>2</sup> *Ibid.*, p. 34.

<sup>3</sup> *Ibid.*, p. 35.



ganized labor from 1871 until its abolition. All labor groups were united on this subject, including the socialists and the Knights of Labor as well as trade unionists. The Special Committee on Labor, appointed by the House of Representatives in 1879 to investigate the condition of the working classes, found a strong sentiment against the system. At a hearing held in Chicago, representatives of organized labor submitted a report of the Ohio Bureau of Labor Statistics which showed the evil effects of the contract system in that state upon both employers and employees, as well as upon the prisoners themselves. Men representing the cigar-makers, the coopers, and other unions, asserted that competition of convict labor had caused a considerable reduction in wages in those trades, and urged complete abolition of the system. Petitions were presented by the Northwestern Harness Manufacturers' Protective Association and the hosiery manufacturers, protesting against the competition of convict labor.<sup>1</sup>

Agitation against the contract convict-labor system gained greater and greater momentum. The formation of the Illinois State Federation of Labor was due to it more than to any other cause. It was the first grievance mentioned in the call for the 1884 convention, it was mentioned most prominently in the opening speeches when the delegates assembled, it occupied much of the attention of the convention and formed the subject of plank number 1 in the platform.<sup>2</sup> In the winter of 1885, the Chicago Trades Assembly sent a committee to Springfield in an endeavor to secure favorable legislation on the question of convict labor.<sup>3</sup> At the second annual session of the state assembly of the Knights of Labor, 1886, over fifty resolutions were introduced bearing upon the contract convict-labor system.<sup>4</sup> In 1886, all labor organizations in the state conducted a boycott against prison-made boots and shoes. The boycott was conspicuously successful, and the manufacturers

<sup>1</sup> Illinois General Assembly, House, *Report of Special Committee on Labor* (1879).

<sup>2</sup> Staley, *History of the Illinois State Federation of Labor*.

<sup>3</sup> *Eight-Hour Herald*, November 25, 1894.

*Knights of Labor*, July 17, 1886, p. 7.

came to terms with the representatives of the united labor organizations.<sup>1</sup>

To a person unfamiliar with the details of the situation, this agitation no doubt appears to have been overdone; for how could the labor of a few hundred convicts, who are notoriously inefficient workers, seriously affect the employment and wages of the many thousands of men employed in the industries of Illinois? The trouble lay in the fact that the labor of convicts was employed in only a few lines of work and the full effect of their competition was felt by only a few relatively small trades. All workers, however, believed that an injustice was being perpetrated upon members of their class, and a sense of class solidarity led them to unite to support those who were being injured.

The coopers were perhaps injured as much as any other trade. In 1880, there were 65 cooperage shops in Chicago employing a total of 686 coopers. By 1885, sixteen of these shops had gone out of business, throwing 235 coopers out of employment. Of 993,000 containers used at the Chicago stock yards during the year ending March 31, 1886, about 520,000 were prison-made. One cooperage manufacturer said that competition of prison-made cooperage had caused a 40 per cent decline in prices, and that as a result he had been compelled to lower wage rates until his men earned only a little more than \$6.00 a week, working from ten to fourteen hours a day.<sup>2</sup> Prison contractors were able to secure the labor of convicts at rates which were so low that manufacturers employing free workmen could not pay a living wage and remain in business. Advantage in rates of wages paid, however, was not the only one enjoyed by prison contractors: they paid no rent, no insurance on buildings, and no taxes on realty.

ADOPTION OF CONSTITUTIONAL AMENDMENT  
PROHIBITING CONTRACT SYSTEM, 1886

When the Thirty-fourth General Assembly met in 1885, thirteen bills were introduced providing for reorganization of the prison-

<sup>1</sup> Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), p. 453.

<sup>2</sup> *Knight of Labor*, April 24, 1886; October 13, 1888.

labor system of Illinois on some basis other than the contract system. Nine of these bills were introduced into the House of Representatives, but were rejected by the committee to which they were referred. One was passed by the House in spite of its unfavorable recommendation by the committee, but was lost in the Senate. Of the four bills introduced into the Senate, one was passed by that body but was defeated in the House. After the many close divisions in the course of deliberations on these bills, it was not a difficult matter to secure the approval of a proposition to submit the issue to a direct vote of the people of the state. A joint resolution was accordingly passed at the close of the session submitting to popular referendum the following amendment to the state constitution: "That hereafter it shall be unlawful for the commissioners of any penitentiary or other reformatory institution in the State of Illinois to let by contract to any person or persons, or corporations, the labor of any convict confined within said institution."

The main business before the 1886 convention of the Illinois State Labor Association was ways and means of securing popular approval of this proposed amendment at the general election which was to be held in November of that year.<sup>1</sup> Owing to the importance attached to this matter by both workingmen and the manufacturers, and the need of correct information on the part of the voters, the State Bureau of Labor Statistics devoted part of its *Fourth Biennial Report* (1886) to consideration of the issues involved.<sup>2</sup> This part was issued in pamphlet form in advance of the remainder of the report in order that the facts might be made available to the public before the election. So successful were the workers in their appeal to the public, that they secured popular approval of the amendment, though by a small majority.<sup>3</sup>

The prison contractors tried by injunction process to prevent

<sup>1</sup> Staley, *History of the Illinois State Federation of Labor*.

<sup>2</sup> The account given in this report has been drawn upon extensively by the writer in the portion of this chapter dealing with the period before 1886.

<sup>3</sup> The majority was 19,525 out of a total of 574,080 votes.



the counting of the vote,<sup>1</sup> and tried to secure passage of a resolution by the 1887 General Assembly instructing the prison commissioners to advertise and make new contracts for the labor of prisoners. A substitute resolution was adopted, however, to the effect that the people had legally adopted the amendment and acknowledging the duty of the General Assembly to carry out its terms by proper legislation.<sup>2</sup>

#### FURTHER TROUBLES

The adoption of this amendment did not, however, solve the prison-labor problem, although the working classes assumed that the battle had been won. An amendment abolishing the contract system had indeed become a part of the state constitution, but even this did not abrogate contracts already entered into for the labor of convicts,<sup>3</sup> and did nothing toward solving other problems.

The period of the nineties was one of considerable investigation and agitation, but no constructive action was taken. The legislative committee which investigated conditions in the sweat shops of Chicago in 1893 found that a great deal of prison-made clothing was imported into Illinois from New York, New Jersey, and other states, owing to the low labor cost involved in such manufacture. The committee recommended the passage of a bill regulating the sale of prison-made goods in Illinois,<sup>4</sup> but no bill of this kind was passed.

In 1895, the cigar-makers secured the passage of a bill prohibiting the manufacture of cigars in Illinois prisons. Governor Altgeld, however, vetoed the bill since the prison-labor policy of the state was less injurious to the cigar industry than to any other industry in which prisoners were employed. During Altgeld's administration, the prison officials endeavored to increase the number of

<sup>1</sup> *Knights of Labor*, November 20, 1886.

<sup>2</sup> *House Journal*, 1887, p. 322.

<sup>3</sup> The prison commissioners had made contracts running until 1894 in some instances. See Illinois Bureau of Labor Statistics, *Fourth Biennial Report* (1886), p. 6. George Schilling, a prominent labor leader, organized an Anti-contract Convict Labor League to secure the abrogation of these contracts.

<sup>4</sup> *Senate Journal*, 1893, pp. 340-41.



prison industries so that no more than one hundred men would be employed in any one line of work.<sup>1</sup> Owing to the large number of prisoners and the difficulty of finding industries suitable for a prison, they had not fully succeeded in this endeavor. Only fifty-eight men, however, were employed in the cigar shop.<sup>2</sup>

SENATE INVESTIGATING COMMITTEE, 1895

In this year also, a senate committee appointed to investigate the convict-labor problem reported its findings and recommendations. It visited the prisons at both Chester and Joliet and found two systems in operation at each. At Chester, five industries were in practical operation. The stone and brick industries were fully on state account and were considered desirable industries for convict labor since a large amount of labor was involved. Three others, however, including the manufacture of pearl buttons, knit goods, and hollow ware, were conducted on the "piece-price" plan, a plan which was practically identical with the outlawed contract system. Under this system, outside parties furnished the raw materials and took the product at a price calculated on the basis of the amount of labor at a given rate per day involved in its production. At Joliet, the making of harness, saddlery, chairs, cooperage, cigars, stone, and brooms was carried on under the state account system; but a large number of men on the contract plan were engaged in the manufacture of boots and shoes, and reed and rattan chairs. The committee recommended that the state law be so changed "that convict labor shall be used to produce such articles of supplies as are used by the State in the charitable institutions, and in the manufacture of such products as labor enters most largely into, and necessary to keep convicts employed."<sup>3</sup> That is to say, the committee recommended the adoption of a prison-labor system similar in some respects to that in operation in New York. On the last day of the session, the General Assembly approved the report of this committee but took no other action.

<sup>1</sup> In 1887, a bill had been introduced prohibiting the employment of more than fifty convicts in any one industry.

<sup>2</sup> *House Journal*, 1895, p. 1092.

<sup>3</sup> *Senate Journal*, 1895, pp. 1002-1005.

Governor Altgeld was disgusted with this manner of dealing with matters of importance, and included the subject of convict labor in his proclamation for a special session in 1895. He said:

Although the General Assembly was in session over five months, it did nothing towards further solving the prison labor problem, but on the last day of the session it approved a report of a committee, recommending the adoption of a system said to prevail in New York, thus apparently taking a position on the subject without assuming any responsibility. Now if the New York system, or any other, is really better than ours, steps should have been taken to adopt it.

He recommended the enactment of such legislation relating to the employment of the convicts of Illinois as would be an improvement upon the system then in vogue and would relieve free labor from competition with prison labor, without unduly burdening the taxpayers.<sup>1</sup> No action was taken by the General Assembly in spite of the governor's recommendations. In his biennial message to the 1897 General Assembly, Governor Altgeld repeated his former recommendations,<sup>2</sup> but the only action taken was the appointment of a Senate committee to correspond with authorities of other states, notably North Carolina and New York, concerning their methods and success in employing convicts to improve the public highways.<sup>3</sup> If this committee made an investigation and report, the writer has been unable to discover it. At any rate, no legislation resulted from its action.

#### COMMISSION TO STUDY THE NEW YORK STATE-USE PLAN

In the meantime organized labor had become very much interested in the New York plan of requiring state institutions to buy all possible products from the state prisons. In 1899 a bill was introduced into the Senate (S.B. No. 419) to provide for such a system, but was unfavorably reported and tabled. A Senate joint resolution (S.J.R. No. 19) was then introduced and passed authorizing the governor to appoint a commission of six, three of whom were to be members of the General Assembly, one a warden of a state

<sup>1</sup> *House Journal*, Special Session, 1895, pp. 5, 6.

<sup>2</sup> *House Journal*, 1897, pp. 39, 40, 42.

<sup>3</sup> *Senate Journal*, 1897, p. 647.

penal institution, one a representative of the labor interests, and one a representative of the manufacturing interests of the state, whose duty it was to investigate the New York convict-labor system and report its findings to the 1901 General Assembly.<sup>1</sup>

Although five of the six members of this commission were pre-disposed in favor of the New York system,<sup>2</sup> the facts disclosed by the investigation resulted in a unanimous unfavorable report. The commission opposed the adoption of the New York system on several grounds: the market was not large enough to keep all prisoners employed; it would require a large expenditure of money with no possibility of equal returns; it would increase the cost of maintaining the prisons, and it would not, to any appreciable extent, decrease the competition between convict and free labor.<sup>3</sup>

The unfavorable report of this commission led the Illinois State Federation of Labor to adopt a new program. A bill providing for the New York system had been proposed by the State Federation, but a new bill providing for the employment of convicts in the preparation of material for use on the public highways was introduced in its stead. It failed to pass, however.

#### CONTRACT SYSTEM STILL IN USE IN VIOLATION OF AMENDMENT OF 1886

In spite of the adoption of the constitutional amendment of 1886, the contract system was still in use. The proceedings of the 1901 convention of the Illinois State Federation of Labor state that "it is admitted that no effort has been made to obey the constitutional provision since Governor Altgeld's administration. It is no secret that the convicts are manufacturing, under contract, boots and shoes, harness, chairs, brooms, mattresses, and other articles."<sup>4</sup> In 1902, the attorney-general of Illinois advised Governor Yates that such contracts constituted a violation of the amendment of

<sup>1</sup> *House Journal*, 1899, p. 715.

<sup>2</sup> Illinois State Federation of Labor, *Proceedings of the 1901 Convention*, p. 5.

<sup>3</sup> *Senate Journal*, 1901, pp. 252-53.

<sup>4</sup> P. 5. It was alleged that the contractors paid the prison management fifty cents per day for each prisoner employed.

1886, in spite of recitals in the contracts intended to avoid this stigma.<sup>1</sup>

Governor Yates became much interested in the problem and early in his administration invited representatives of both organized labor and the manufacturers to confer with him and the prison officials concerning its solution. After several conferences it was determined to refer the whole matter to the 1903 General Assembly. A proper solution, it was felt, would require that competition of prison labor with free labor be reduced to a minimum, and at the same time make the prisons as little burdensome to the taxpayers as possible and keep the prisoners fully employed. At the request of the Illinois State Federation of Labor, the governor and the prison officials agreed that no further contracts for the labor of prisoners should be entered into until after the General Assembly had had an opportunity to act.<sup>2</sup>

#### LAW OF 1903—STATE-USE SYSTEM ADOPTED

Several bills relating to the subject of convict labor were introduced into the 1903 General Assembly, but a compromise was reached for the passage of a bill containing provisions similar to those of the New York law, which had been favorably recommended by the United States Industrial Commission a short time before.<sup>3</sup> In the words of Mr. David Ross, secretary of the Illinois Bureau of Labor Statistics, the new Illinois law was "the most advanced legislation of the kind anywhere on record."<sup>4</sup> It<sup>5</sup> created a Board of Prison Industries composed of various prison officials of the state, whose duty it was to attend to the disposition of all the products manufactured by the prisoners. All such products were to be dis-

<sup>1</sup> The following is an example: "that nothing herein shall be construed as a letting by contract for the labor of such prisoners." See Illinois State Federation of Labor, *Proceedings of the 1902 Convention*, pp. 5-6.

<sup>2</sup> *House Journal*, 1903, pp. 32-33.

<sup>3</sup> These recommendations may be found in Volume III of the Commission's *Report*, pp. 5-16.

<sup>4</sup> Association of Officials of Bureaus of Labor Statistics of America, *Proceedings of the 19th Annual Convention* (1903), p. 158.

<sup>5</sup> *Laws of 1903*, p. 271.



posed of to state institutions and to political divisions of the state. The Board was particularly charged with the duty of seeing that none of the prison products were sold in the open market, or in competition with the products of free labor. The contract system was prohibited, and all prison labor contractors were required to remove their property from the prisons.

Some legal difficulties arose when the time came to put this law into effect. Prison contractors endeavored to obtain injunctions prohibiting the Board of Prison Industries from putting the law into effect, but these cases were decided favorably to the Board.<sup>1</sup> By a ruling of the attorney-general, the term "political divisions of the state," included the cities, villages, towns, counties, and school districts of the state.<sup>2</sup> These political divisions, together with the various state institutions, constituted the outlet for prison-manufactured goods under the new law.

#### DISSATISFACTION WITH THE LAW OF 1903

In the practical application of the law, considerable difficulty resulted with regard to furnishing supplies to the political divisions of the state. Governor Yates stated that if the letter of the law were enforced, every official of the state, except those whose printing was furnished by the commissioners of state contracts, would be required to secure all books, blanks, and other printing from the Board of Prison Industries. This would cause great loss to the printing industry. He therefore advocated an amendment to the law providing that no more than a given number of convicts should be employed in any one industry.<sup>3</sup> There was widespread dissatisfaction among county, township, and municipal officials because of the long delay involved when supplies were ordered from the Board of Prison Industries. Furthermore, the Board itself was dissatisfied because it was compelled to handle a large number of small orders from these state officials.<sup>4</sup>

<sup>1</sup> Illinois Attorney General, *Biennial Report* (1904), pp. 16-17.

<sup>2</sup> *Ibid.*, p. 393.

<sup>3</sup> *House Journal*, 1905, p. 38.

<sup>4</sup> Association of Officials of Bureaus of Labor Statistics of America, *Proceedings of the 21st Annual Convention* (1905), p. 59; Illinois State Board of Prison Industries, *Report* (1904-5), p. 4.

The 1904 convention of the Illinois State Federation of Labor devoted considerable attention to the convict-labor question, and was apparently well satisfied with the law. A special committee on convict labor, however, made certain recommendations concerning its interpretation and application: (1) that only raw material be purchased by the state for manufacturing purposes; (2) that no machinery other than that driven by hand or foot power should be used if the finished product could be manufactured with this type of machinery; (3) that the Board of Prison Industries should not single out certain trades or lines of work for the employment of the convicts, but should endeavor to meet at least part of the demand for every article for which requisition was made; (4) that requisitions for crushed stone for the making of roads should be honored before any other article was manufactured. It recommended further that the executive officers of the State Federation co-operate with the Good Roads Association, and urge the building and maintenance of good roads throughout the state, through the use of crushed stone prepared at the state prisons.<sup>1</sup>

#### THE LAW OF 1903 AMENDED

When the General Assembly met in 1905, there was a strong demand for amendments to the 1903 law, and even for its repeal. The contractors who had been ousted from the prisons were trying to make the law unpopular,<sup>2</sup> and the movement to repeal it gained considerable momentum in spite of the efforts of organized labor to show that it should not be repealed without a fair trial. Governor Deneen supported this view; but the labor lobby was "practically compelled to choose between outright repeal" of the law and the passage of a bill which would in some degree represent the feeling of the legislature and quiet the objection that some of the convicts were being deprived of needful occupation. When actual repeal of the law became imminent, Governor Deneen came to the

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1904 Convention*, pp. 70-71.

<sup>2</sup> Statement of Mr. E. R. Wright in Illinois State Federation of Labor, *Proceedings of the 1905 Convention*, p. 13.

rescue with a suggestion that the original bill be amended to allow the disposal of surplus prison products on the open market. The State Federation executive board agreed to accept this method of escape, and the bill thus modified became a law.<sup>1</sup>

Under the amended law, the market for prison-made goods, except for the open-market provision, consisted of the state, state institutions, and the various school and road districts. The prison officials calculated that in thus eliminating counties, townships, and municipalities from the operation of the law, not to exceed 60 per cent of the available labor of the penitentiaries could be utilized. The problem of keeping the other 40 per cent employed was met by a provision that surplus products of not exceeding this proportion of the prisoners might be disposed of "to the best advantage of the state," that is, on the open market. Another law, approved the same day, authorized the employment of convicts in the manufacture of tile, culvert pipe, road building, and blasting material, and machinery, tools, and appliances for road building. Such materials were to be furnished free on requisition of the state highway commission.<sup>2</sup>

Organized labor was not satisfied with this law and in 1907 the Committee on Convict Labor recommended the following changes to the annual convention of the State Federation: (1) repeal of the 40 per cent clause; (2) extension of the law to all penal institutions in the state, including county and municipal institutions; (3) the requirement that prison-made products be labeled "prison-made." It also recommended co-operation with other bodies in an effort to secure uniform prison laws throughout the United States.<sup>3</sup> The General Assembly has taken no action on these matters.<sup>4</sup>

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1905 Convention*, pp. 13-14. A bill was also introduced to establish a large printing plant at the Joliet penitentiary, but organized labor was successful in opposing it, as had been the case when a similar measure, known as the "Chapman bill," was before the General Assembly some years earlier (1887).

<sup>2</sup> The two laws may be found in *Laws of 1905*, pp. 344 and 345.

<sup>3</sup> Illinois State Federation of Labor, *Proceedings of the 1907 Convention*, p. 67.

<sup>4</sup> In 1927, bills were introduced providing for exclusive state use of prison products and for the labeling of all prison-made goods sold in the state. Opponents



## FURTHER AMENDMENTS

A few minor amendments have been passed since 1905. In 1909, permission was granted to employ not more than 40 per cent of the prisoners for improvement of the channels of the Okaw, Cache, Little Wabash, Big Muddy, Saline, and Sangamon rivers.<sup>1</sup> In 1913, upon recommendation of the governor, a law was passed permitting convicts and prisoners<sup>2</sup> whose unexpired terms did not exceed five years, to be employed upon the public roads or in preparing road materials at points outside the walls of penal or reformatory institutions.<sup>3</sup> In 1915, this provision was changed to permit the employment of any prisoner at such work regardless of the length of his unexpired term.<sup>4</sup> The Civil Administrative Code of 1917 abolished the Board of Prison Industries and included its duties among those of the Department of Public Welfare.

In recent years organized labor has been continually on the alert to prevent the state officials from introducing industries at the prisons which would be detrimental to free labor. In 1923 it successfully opposed the opening of a factory to manufacture work shirts and overalls.<sup>5</sup> Efforts have also been made to secure the abolition of certain prison industries. In 1915, after twenty-one years of endeavor, the International Broom and Whisk Makers' Union, in conjunction with the officers of the Chicago Federation of Labor and the Illinois State Federation of Labor, obtained the

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of the "state use" bill agreed to support the labeling bill if the former were withdrawn. This was done, but the labeling bill received only 40 affirmative votes, or 37 less than a constitutional majority. See Illinois State Federation of Labor, *Weekly News Letter*, May 21, 1927.

<sup>1</sup> *Laws of 1909*, p. 303.

<sup>2</sup> The term "convict" applies to one who is serving sentence in a state penitentiary, while the term "prisoner" applies to one who is serving sentence in a reformatory institution.

<sup>3</sup> *Laws of 1913*, p. 581. Illinois was the ninth state to adopt this system. See Governor Dunne's message in *House Journal*, 1917, p. 30.

<sup>4</sup> *Laws of 1915*, p. 555. This was also passed upon recommendation of the governor (*House Journal*, 1915, p. 121).

<sup>5</sup> Illinois State Federation of Labor, *Proceedings of the 1924 Convention*, p. 377.



discontinuance of broom manufacturing at the Joliet penitentiary. This was expected to aid the Broom Makers' Union to build up its organization in Illinois.<sup>1</sup> A convict-labor committee of the State Federation in 1921 recommended the passage of a law to regulate the sale in Illinois of goods made in prisons of other states.<sup>2</sup> It proposed that an annual license fee of \$500 be charged and a bond of \$5,000 be required of every applicant to insure his compliance with all the provisions of the law relating to sale of convict-made goods. All convict-made goods were to be so marked. A bill (H.B. No. 357) embodying these provisions was introduced into the 1921 General Assembly but failed to pass.

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1915 Convention*, pp. 77, 326.

<sup>2</sup> See *Proceedings of the 1921 Convention*, p. 348.

## CHAPTER VII

### CHILD LABOR LEGISLATION

#### CHILD LABOR PROVISIONS OF THE MINING CODE

Aside from the series of apprenticeship laws beginning with the year 1819, which are discussed in another chapter, no laws regulating the employment of children were enacted in Illinois until the seventies. One of the chief demands of the labor movement in this period was the abolition of child labor. In Illinois this demand was first manifested in legislation with the passage of the general mining law of 1872. Section 6 of this law prohibited any young person under fourteen years or any female of any age from entering any coal mine to work therein. Proof of age was to be made by sworn certificate or "otherwise," before such young person might be employed in a coal mine.<sup>1</sup> The mining code since 1872 has always prohibited women and girls from working in the mines, but the provisions concerning the employment of boys have been changed a number of times. The amendment of 1873 lowered the age limit for boys to twelve years, but required no proof of age.<sup>2</sup> One demand made by the coal-miners of Braidwood when the special House committee on labor held hearings at that place on March 3, 1879, was the abolition of the labor of children under the age of fourteen. They stated that one hundred and fifty children were working in the Braidwood mines at that time, and that the wages of miners were so low that employment of children was necessary.<sup>3</sup> While the General Assembly of 1879 retained twelve years as the minimum, it did in some measure meet the miners' demands by prohibiting boys between twelve and fourteen years of age from working in the mines unless they could read and write.<sup>4</sup> In 1883, the

<sup>1</sup> *Laws of 1871-72*, p. 568.

<sup>2</sup> *Laws of 1873*, p. 126.

<sup>3</sup> Illinois General Assembly, House, *Report of the Special Committee on Labor* (1879), p. 59.

<sup>4</sup> *Laws of 1879*, p. 204.

age limit was again fixed at fourteen years for all boys, but nothing was said concerning proof of age or ability to read and write.<sup>1</sup> None of these provisions could have had important practical effects. Provisions as to proof of age were either entirely lacking or so vague as to be useless; ability to read and write, when required, was not defined, and enforcement, which was in the hands of the mine inspectors, must necessarily have been very lax.<sup>2</sup>

In 1887, better provision was made, but this also fell far short of adequacy. Fourteen years was still the age limit, but before any boy might be permitted to work in any mine, he was to be required to produce an affidavit from his parent or guardian, sworn and subscribed to before a justice of the peace or notary public, that he was fourteen years of age. The mine operator was required to keep such affidavits for all the boys employed in his mine on file for inspection by the mine inspector.<sup>3</sup> Practically these same provisions were incorporated in the act of 1899, which revised and consolidated the mining laws of the state.<sup>4</sup> After the child labor law of 1903, which prohibited children under sixteen from being employed at any occupation which might be considered hazardous or dangerous, was held to apply to coal-mining,<sup>5</sup> the General Assembly in 1905 raised the age limit to sixteen, in order to bring the age required by the mining law into agreement with that of the child-labor law.<sup>6</sup> When the law regulating metal mines was enacted in 1921, a provision similar to that of 1905 was included.<sup>7</sup>

#### THE LAW OF 1877

These mining laws have not, of course, been the only ones placing restrictions upon the employment of children. Laws of greater scope and importance and containing far better provisions for enforcement have been enacted from time to time. The first one, how-

<sup>1</sup> *Laws of 1883*, p. 116.

<sup>2</sup> See chapter on "Mining Legislation," pp. 312 ff. for quality of the administration of the mining laws in this period.

<sup>3</sup> *Laws of 1887*, p. 230.

<sup>4</sup> *Laws of 1899*, p. 320, sec. 22.

<sup>6</sup> *Laws of 1905*, p. 326.

<sup>5</sup> See below, pp. 167 ff.

<sup>7</sup> *Laws of 1921*, p. 526, sec. 36.

ever, that of 1877, entitled "An act to prevent and punish wrongs to children,"<sup>1</sup> while wider in scope, was defective in regard to provisions for enforcement. Child-labor laws, perhaps more than any other type of labor legislation, need adequate provisions for enforcement. They are never self-enforcing. The law of 1877 prohibited the employment of any child under fourteen in singing, playing on musical instruments,<sup>2</sup> rope or wire walking, dancing, begging, or peddling, or as a gymnast, contortionist, rider, or acrobat in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice, or in any business, exhibition, or vocation injurious to the health or dangerous to the life or limb of such child. Violations of the act were punishable by fine or imprisonment in the county jail, or both.

#### THE LAW OF 1891

The first law of a general nature designed "to prevent child labor" was that of 1891.<sup>3</sup> This act prohibited the employment of any child under thirteen years of age by any person, firm, or corporation, unless it was made to appear to the school authorities that the labor of such child was essential to the support of some aged or infirm relative. If the school authorities were convinced that the labor of the child was necessary for this purpose, and if the child had attended school for as much as eight weeks during the current school year, they were to grant a certificate authorizing his employment. The employment of any child under thirteen was prohibited unless such a certificate was furnished. This law, while an improvement over the earlier laws in that it contained a definite, though limited, provision as to school attendance and required the presentation of a certificate granted by the school authorities before employment of any child under the age of thirteen was lawful, was of little value because no state department was charged with its

<sup>1</sup> *Laws of 1877*, p. 90. This law was amended in some respects in 1895 (*Laws of 1895*, p. 153), but the changes made are of no importance for our purpose.

<sup>2</sup> Singing in churches and learning to play upon musical instruments, etc., were not affected by the act.

<sup>3</sup> *Laws of 1891*, p. 87.



enforcement and because of the exemption provision. The latter provision reflected the prevailing opinion of the day that the labor of small children was often necessary to preserve some widow or other relative from destitution; but, as a matter of fact, the mere pittance such a child was able to earn could seldom save a family from pauperism.

#### THE SWEAT-SHOP ACT OF 1893

The Sweat-Shop Act of 1893 was really the first act restricting child labor that was susceptible of even a moderate degree of enforcement. Section 4 of this act prohibited the employment of any child under fourteen years of age in any manufacturing establishment, factory, or workshop within the state.<sup>1</sup> It was made unlawful for any child between fourteen and sixteen years of age to be employed in any such establishment, unless the parent or guardian made affidavit stating the age, date, and place of birth of such child. It was required that all such affidavits be kept on file by the employer and produced for inspection upon demand by the state factory inspectors, who were charged with the enforcement of the act. Furthermore, all persons employing children were required to keep a register recording the name, birthplace, age, and place of residence of each person under the age of sixteen employed by them. Factory inspectors were given power to demand a certificate of physical fitness made by some regular physician in good standing in the case of children appearing to be physically unable to do the work at which they were engaged, and to prohibit the employment of any minor who could not obtain such a certificate.

Section 5 prohibited the employment of any female in any factory or workshop for more than eight hours in any one day or

<sup>1</sup> The attorney-general of Illinois gave an opinion on August 7, 1893, that sections 4 and 5 of the law were general in their application, and that they were not limited to employees in rooms used for the manufacture of the short list of articles enumerated in section 1 of the act (Factory Inspectors of Illinois, *First Annual Report* [1893], p. 7; Illinois Attorney General, *Report* [1895], p. 265).

It is interesting to note that union labor in Chicago, at least as early as 1883, favored a law prohibiting the employment of children under eighteen in factories and workshops. See testimony of P. H. McLogan before U.S. Senate Committee on Relations between Labor and Capital, August 24, 1883, in *Report*, I (1885), p. 582.

forty-eight hours in any one week. This provision, of course, applied to all females, including minors, and would have been an important safeguard, supplemental to those of section 4, if it had survived the constitutional test in the courts. It was, however, declared unconstitutional by the Supreme Court of Illinois in 1895, although the court indicated that a similar law relating only to females who were minors might be upheld.<sup>1</sup> No such law has been passed.

Section 6 required that all persons employing females in any manufacturing establishment, factory, or workshop, should post notices in the rooms where such help was employed, stating the hours for each day of the week between which work was required of such employees, and in every room where children under sixteen were employed, a list of their names, ages, and places of residence.

#### DEFECTS OF THE ACT OF 1893

The factory inspectors, under the leadership of Mrs. Florence Kelley, began a vigorous enforcement of the act, and by persistent prosecutions succeeded in breaking up to some extent the employment of children under fourteen years of age.<sup>2</sup> It was soon discovered, however, that enforcement was greatly hampered by certain defects in the act. In the first place, it was found to be almost impossible to prove that a child who was in a workroom was

<sup>1</sup> For a more complete discussion of this decision see chapter on "Hours of Labor for Women," p. 189.

<sup>2</sup> *Hull-House Maps and Papers*, by residents of Hull-House (1895), p. 32.

Mrs. Kelley failed to secure a reappointment as chief factory inspector because she had enforced the laws so vigorously that "a protest went up from those manufacturers who did not wish to have [them] enforced." See Maud Nathan, *The Story of an Epoch-Making Movement* (1926), p. 54. Louis Arrington, who succeeded Mrs. Kelley as chief factory inspector, had for twenty-seven years been connected with the Illinois Glass Bottle Company, of Alton. The glass manufacturers employed many children in their factories and were among the most bitter opponents of child-labor legislation. "Throughout his term of office as Chief Factory Inspector, there were no prosecutions even of open and flagrant violations of the child-labor law by glass manufacturers" (National Consumers' League, *Fourth Annual Report* [1903], p. 28).

employed there. Although there was every indication that the child was working when the inspector entered the room, it ceased work as soon as the inspector was observed and there was a general denial by the child, the employer, and the other workers that it had been working. Explanations of varying degrees of plausibility were given to explain its presence in the workroom. It was often claimed that the child was only visiting the shop or was merely waiting for some errand to do. The remedy for this situation was to make the presence of a child in such workroom conclusive evidence of its employment therein. This remedy had been used in Massachusetts, for instance, where the inspectors had encountered similar difficulties, and when the Illinois Child-labor Law of 1897 was passed, this provision was included.

A second important defect in the law was disclosed by the fact that hundreds of children provided with affidavits of legal age were found working in the factories although the inspectors had reason to believe they were under fourteen years of age.<sup>1</sup> In such cases the only step which the inspectors could take was to require a certificate of physical fitness for any child which seemed unable to perform the labor at which it was engaged. This, however, was far from satisfactory, since the law permitted any regular physician in good standing to issue such certificates without requiring that he should acquaint himself with the nature of the task the child was to perform or the conditions under which it was to work, or even that he should thoroughly examine the child. Gross abuses arose under these lax requirements. If one physician refused to grant a certificate, the child could go to another, and some "regular physician of good standing" could always be found who would certify

<sup>1</sup> Interesting situations arose in connection with these affidavits. Among the affidavits of children employed in a certain caramel works, the name Smith was frequently found interspersed among an astonishing collection of unpronounceable Polish and Bohemian names. As there was rarely an English-speaking child in this factory, the prevalence of Smiths was a matter of perplexity until it was found that notaries had suggested that the children call themselves by a more manageable name. This "widespread custom" greatly increased the difficulty of enforcing the act in the foreign colonies, and the work of fitting such affidavits to the children was as "laborious" as it was "absurd." See *Hull-House Maps and Papers*, p. 57, n. 1.



to the good health of any child.<sup>1</sup> These certificates were granted in a "disgracefully reckless manner."<sup>2</sup> The inspectors were powerless once the child had obtained such a certificate.

The law of 1893, applying only to manufacturing establishments, workshops, and factories, afforded no protection to children in other than manufacturing occupations, and the school authorities continued to issue permits for these occupations under the law of 1891. About this time the pneumatic tube began to supersede the "cash" children in the more respectable of the retail stores, and the movement to extend the law to include mercantile establishments had greater promise of success. The value of the law was considerably lessened by the failure to include mercantile establishments within its scope.

Aside from these defects, the law placed no restrictions upon the hours of labor for children except the void provisions of section 5, it contained no educational requirements, it failed to safeguard the life, health, or limb of children who were employed, it was conservative as to the age limits fixed, it provided insufficient means of enforcement, and was supplemented by an inadequate compulsory school-attendance law.<sup>3</sup> Nevertheless, in spite of these defects, when viewed as an initial measure, this law must be regarded as a promising beginning.

<sup>1</sup> In one such case a contractor produced the following certificate, written upon the prescription blank of a physician in "good and regular standing": "This is to certify that I have examined Annie Cihlar, and found her in a physiological condition." This was made a test case, and the judge decided that this certificate was void and imposed a fine upon the employer for failing to obtain a certificate in accordance with the wording of the law (*Hull-House Maps and Papers*, p. 66).

<sup>2</sup> Factory Inspectors of Illinois, *First Annual Report* (1893), p. 9.

<sup>3</sup> So far as was known to the factory inspectors, no prosecution had ever been undertaken by any board of education to enforce the compulsory school law. It was therefore the unpleasant duty of the factory inspectors to prosecute employers for hiring children under fourteen years of age in violation of the factory law, while parents who had sought employment for the child in violation of both the school and the factory law went unpunished (Factory Inspectors of Illinois, *Fourth Annual Report* [1896], p. 25).



## INVESTIGATING COMMISSION OF 1895

A bill drawn in accordance with the recommendations of the factory inspectors was introduced into the regular session of the 1895 General Assembly but failed to reach a third reading in either house. At the special session, a similar bill was introduced by Representative Charles Page Bryan, but it also failed to pass. On the last day of the special session, however, the House created a commission of nine representatives, appointed by the speaker, "to investigate the question of child labor" in Illinois and make a report to the next legislature.<sup>1</sup> Representative Bryan, the chairman of this commission, requested the Civic Federation of Chicago to aid in carrying on the investigation, and pursuant to this request, a committee appointed by the industrial committee of the Federation undertook the task of investigating the conditions of employment of children in the drygoods stores of the city.<sup>2</sup>

In the last weeks of December, 1895, the committee endeavored to secure from managers of department stores the names and residences of the younger children then in their employ, but could secure no lists at that time owing to the pressure of work during the Christmas shopping season. In January, however, lists of children employed in fourteen stores were secured, but none from stores employing children in large numbers. In February and March, visits were made to the homes of 302 of the 1,310 children included in the lists, and information was sought concerning: (1) age of child at leaving school and beginning work; (2) present wage and wage during holidays; (3) carfare and other outlay necessitated by the work; (4) fines, how much and for what causes; (5) furnishing of seats; (6) condition of the child's family, how many members, how many at work, and if father was working. No attempt was made to ascertain the number of children at work in all the dry-good stores of the city.

It was found that the hours of employment ranged from nine to fifteen per day. During the "holiday" weeks most of the children

<sup>1</sup> *House Journal*, Special Session, 1895, p. 127.

<sup>2</sup> *Factory Inspectors of Illinois, Third Annual Report (1895)*, p. 46.

reached home after midnight. In most of the stores the children were not permitted to sit down, and in some stores they were required to wash windows and perform other work beyond their years and strength when not otherwise engaged. The wages received ranged from \$1.75 to \$3.00 a week, the prevailing weekly wage being \$2.00 to \$2.50. From these wages, 182 children were obliged to deduct carfare. The prevalent system of fining still further reduced the child's wage. Many children walked from four to six miles a day to and from their homes in addition to the incessant running during working hours.

The following statement summarizes the conclusions reached by this committee:

All that can be said in defense of the employment of the hundreds of children in the drygoods stores of Chicago whose work is steadiest is, that they add a few dollars a month, for a part of the year, to the family receipts. The number of children demoralized by securing a few days' employment in the stores during the holidays is much greater, and the wage they receive is too insignificant to be reckoned. . . . Some of these children received thirty-two cents net for two days' work, the limit of their employment. This working for a week or less is most mischievous. The inexperience of the child throws a glamor over work and wage, and the routine of the school room seems stupid by contrast.

The vital reason for legislative restriction of child labor . . . is the injury to the child from too early employment, an injury manifest at every turn to those who seriously investigate such employment. Physical breakdown, sapping of moral energy, stunting of wage-earning capacity, result from premature work. If society suffers children to work prematurely, society must pay the penalty when the child becomes dependent upon it in matured years.<sup>1</sup>

In forwarding this report to the Child Labor Commission, the Industrial Committee of the Civic Federation recommended that a law be enacted by the next General Assembly which should (1) prohibit the employment of children under fourteen years of age in mercantile occupations; (2) regulate the employment of children between the ages of fourteen and sixteen years, by means of age affidavits and health certificates, as then required in manufacturing establishments; (3) limit the hours of labor of children.

<sup>1</sup> Factory Inspectors of Illinois, *Fourth Annual Report* (1896), p. 21.

## THE LAW OF 1897

Following this investigation the legislature of 1897 passed a new child-labor law<sup>1</sup> which represented in several respects a substantial improvement over the law of 1893. The scope of the law was widened to include mercantile institutions, stores, offices, and laundries, in addition to manufacturing establishments, factories, and workshops covered by the old law. No person under sixteen years of age was to be permitted to work for wages at any gainful occupation for more than sixty hours in any one week, nor more than ten hours in any one day. The presence of any person under sixteen in any manufacturing establishment, factory, or workshop was to constitute prima facie evidence of his or her employment therein. No child under sixteen was to be employed or permitted to work by any person at any extra-hazardous employment whereby its life or limb was endangered, its health likely to be injured or its morals depraved. The provisions of the former law relating to age affidavits, keeping of a register of employees under sixteen years of age, and posting of lists of such employees in the workroom, were retained. The factory inspectors were to visit and inspect as often as possible all places covered by the act, and were to prosecute all violations discovered. Persons violating or failing to comply with the act were subject to a fine of from \$10 to \$100 for each offense.

## DEFECTS OF THE LAW OF 1897

Although this law was unquestionably an improvement over the old law, it had numerous defects and omissions which were crying for correction. The greatest defect in the law, namely, the system of requiring age affidavits for children between fourteen and sixteen years of age as a prerequisite to their employment, was made patent by facts disclosed by the campaign of enforcement inaugurated by Chief Factory Inspector Edgar T. Davies, in 1901. In the autumn of 1902, fifteen thousand children under sixteen years of age were working in Chicago and three thousand of these were employed under false affidavits, signed by their parents before a notary public, to the effect that they were above the age of fourteen, when in reality disclosures by the factory inspectors showed

<sup>1</sup> *Laws of 1897*, p. 90.



they were below that age. Instead of limiting or preventing the employment of children under fourteen, the affidavit system seemed to encourage the commission of perjury by the parents. The law, requiring prosecution on the charge of perjury for making false affidavit, was too severe, and, in many cases, unfair, because the parents, who were ignorant foreigners, did not appreciate the magnitude or seriousness of the offense. The factory inspection department took one case to the grand jury but failed to get an indictment on the grounds that the penalty was too severe for the offense. As a rule, notaries used little discretion in issuing these affidavits, and it was apparent that all they took into consideration was the twenty-five cents they received for their services.<sup>1</sup> The experience under the affidavit system was conclusive proof that some modification was needed—either some enforceable penalty<sup>2</sup> should be provided or a new system devised.

After Chief Factory Inspector Davies had inaugurated the practice of making crusades by day and by night in an effort to compel compliance with the law, and the large number of violations discovered became generally known, public sentiment became aroused and plans were laid with a view to the enactment of a better law in 1903. The bad conditions under which children were compelled to work appealed strongly to various reform and public-spirited organizations, and in consequence the Cook County Child Saving League, an organization composed of representatives of the various eleemosynary and charitable organizations of Cook County, convened for the purpose of considering the need of additional legislation on compulsory education and child labor, together with the necessity for the enactment of other juvenile reform laws. Two committees were appointed, one to draft a new school attendance law, the other to draft a law which would adequately regulate the

<sup>1</sup> Factory Inspectors of Illinois, *Ninth Annual Report* (1901), pp. 5-6; *Fifteenth Annual Report* (1907), p. 15.

<sup>2</sup> One suggestion was to allow a magistrate to impose a fine as punishment for making false affidavit. In these cases magistrates did not have final jurisdiction because they could not impose penalties in criminal cases unless the punishment was by fine.



employment of children. After considerable investigation and research, and frequent consultation, the child labor committee,<sup>1</sup> taking as the basis for its consideration a measure drawn by the industrial committee of the State Federation of Women's Clubs, drafted a bill which was a composite of the desirable features found in the child-labor laws of other states together with certain provisions which were deemed expedient in view of local conditions.<sup>2</sup>

The bill was introduced into the House of Representatives on February 5, 1903, by Representative F. L. Davies, and was referred to the Committee on Labor and Industrial Affairs. This committee went into the subject exhaustively, holding frequent open meetings where employers and manufacturers and other interested parties were given an opportunity to present their views. Many representatives from charitable associations, juvenile reform organizations, women's clubs, and federations of labor, and a lobbying committee from the Cook County Child Saving League appeared in behalf of the bill. It was seriously and openly opposed by the glass bottle manufacturing interests of the state and secretly opposed by certain other commercial influences. The committee made few changes<sup>3</sup> in the original draft and reported the bill as Com-

<sup>1</sup> The following persons were members of this committee: Edgar T. Davies, chief state factory inspector, chairman; Edwin G. Cooley, superintendent of schools, Chicago; Hastings H. Hart, president of Child's Home and Aid Society; E. P. Bicknell, general superintendent of Chicago Bureau of Charities; Jane Addams, head resident, Hull-House; Harriett M. Van der Vaart, Industrial Committee, State Federation of Women's Clubs; Judge R. S. Tuttle, Juvenile Court, Cook County; George Thompson, member of the Legislative Committee of the Chicago Federation of Labor; T. D. Hurley, president of Visitation and Aid Society; W. L. Bodine, ex-officio superintendent of compulsory education.

<sup>2</sup> Mrs. Florence Kelley stated that the bill was copied, with some modifications, from the Massachusetts law (*American Journal of Sociology*, X, 300).

<sup>3</sup> The only notable changes made in the original draft were: the striking out of the word "English" from the requirement that children must be able to read at sight and write legibly simple sentences in the English language, and the amendment of section 10 so as to provide for an eight-hour day. The former change was much regretted by the friends of the bill, and the latter would have been included in the original draft presented to the legislature had not the committee been apprehensive lest such a provision would meet with disfavor by the legislature.

mittee Bill No. 634 with the recommendation that it be passed. This was accomplished in the House with only one dissenting vote, which was registered by a member of the House who had promised the glass interests that he would vote against its passage.<sup>1</sup> In the Senate, however, the bill had a somewhat perilous career. At a time when few of its supporters were present, its opponents succeeded in amending it in such a manner as to destroy its best features. On the next morning, the senators who were friendly to the measure discovered the alterations and, to the gratification of a large lobby of supporters of the bill who had come to Springfield in behalf of its passage, recalled it to the order of second reading, laid all its amendments on the table, and placed it on order of third reading in the form as passed by the House. It passed the Senate on May 7, 1903, and was signed by the governor on May 15.<sup>2</sup>

In the securing of this legislation great credit is due to Miss Jane Addams, of Hull-House, and her co-workers, and the members of the industrial committee of the State Federation of Women's Clubs, who made several trips to Springfield at the time the bill was under consideration by the legislature. Miss Addams' influence and ready arguments constituted a strong moral force in securing the enactment of the law.<sup>3</sup> The bill also received the indorsement of more than three hundred labor unions of the state, and the Chicago Federation of Labor submitted a resolution to the legislature urging that it be passed.<sup>4</sup>

#### THE LAW OF 1903

This law,<sup>5</sup> which of course repealed all other acts in conflict with it<sup>6</sup> but made specific mention of the Child-labor Act of 1891,

<sup>1</sup> Factory Inspectors of Illinois, *Fifteenth Annual Report* (1907), p. 16.

<sup>2</sup> Factory Inspectors of Illinois, *Eleventh and Twelfth Reports* (1903-4), pp. xv-xix.

<sup>3</sup> Factory Inspectors of Illinois, *Fifteenth Annual Report* (1907), p. 16.

<sup>4</sup> *House Journal*, 1903, p. 1142.

<sup>5</sup> *Laws of 1903*, p. 187.

<sup>6</sup> The provision in the act of 1893 authorizing factory inspectors to require a certificate of physical fitness from a physician in the case of children who appeared

prohibited the employment of children under fourteen at any gainful occupation in any theater, concert hall, or place of amusement where intoxicating liquors were sold, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory, or workshop, or as a messenger or driver therefor, within the state; and no such child might be employed at any work performed for wages or other compensation during any time when the public schools of the place where he or she resided were in session, nor be employed at any work before 7:00 A.M. or after 6:00 P.M. No child was to be permitted to work more than eight hours in any one day, or more than forty-eight hours in any one week.<sup>1</sup>

The above-mentioned establishments were required to keep a register of minors between fourteen and sixteen employed by them, recording the name, age, and place of residence of such children, and to place on file an age and school certificate for each child (sec. 2). Age and school certificates were to be issued only by superintendents of schools or superintendents or principals of parochial schools upon proof of the age of such children by records such as the previous school census, birth or baptismal certificates, or school records.<sup>2</sup> If such records could not be produced, the parent or

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to be physically unfit to perform the labor at which they were engaged, was not supplanted or repealed by the Act of 1903.

The Illinois Supreme Court in 1912 held that the Act of 1897 was not repealed by implication by the law of 1903. Since there was nothing in the Act of 1903 to indicate the contrary, the words "manufacturing establishment, factory, or workshop," as defined expressly in the Child-labor Act of 1897, were held to have the same meaning in the Act of 1903, and included a coal yard where coal was cleaned, sorted, and stored (*Purtell v. Philadelphia Coal Co.*, 256 Ill. 110 [1912]).

<sup>1</sup> Sections 1 and 10. Illinois was the first state to establish an eight-hour day and a forty-eight-hour week for children.

<sup>2</sup> The original bill introduced into the 1903 General Assembly provided for a central office to issue age and school certificates in Chicago. The legislative committee to which the bill was referred, however, struck out this provision and substituted one providing for their issuance by school principals. This change prevented both uniformity in administration of the act and the collection of needed data concerning its effectiveness. In order to discover the effectiveness of enforcement, representatives of the Consumers' League of Illinois visited more than fifty



guardian of the child might make oath before the juvenile or county court as to its age, and the court might thereupon issue an age certificate as sworn to (sec. 6). The age and school certificate of a child under sixteen was not to be granted until a school attendance certificate signed by the teacher and certifying that the child could read and write simple sentences and stating what grade it was in, was presented. Children unable to read at sight and write legibly simple sentences had to produce weekly certificates that they were attending evening schools (sec. 7).

No child between fourteen and sixteen years of age might be employed more than eight hours in any one day or more than forty-eight hours in any one week. Work by children within this age group had to be performed between 7:00 A.M. and 7:00 P.M. Employers were required to keep posted in rooms where such minors were employed lists of such minors, the hours of labor required of each of them each day of the week, the hours of commencing and stopping work, and the time allowed for meals (sec. 10). This provision was needed as a means of facilitating the enforcement of the act.<sup>1</sup>

Section 11 contained a long list of occupations prohibited to children under sixteen.<sup>2</sup> The prohibited occupations were for the

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public and parochial schools in the industrial districts of Chicago. As a result of conferences held with the public school authorities and with Archbishop Quigley of the Roman Catholic Church at which these data were presented, a central office with representatives of both the public and the Catholic schools was established. In order to increase the value of this arrangement, the office was located in the same building with the state factory inspector's office (National Consumers' League, *Sixth Annual Report* [1905], p. 52).

<sup>1</sup> Factory Inspectors of Illinois, *Eighth Annual Report* (1900), p. 27.

<sup>2</sup> This section was upheld by the Illinois Supreme Court in the case of *Beauchamp v. Sturges & Burn Co.*, 250 Ill. 303 (1911). It had been contended that this section, in fixing the age limit of boys who might enter certain occupations at sixteen years, was invalid upon the ground that a boy sixteen years old should be held to have arrived at the age of discretion and be allowed to choose his occupation and exercise his right of contract with reference thereto without restraint.

After this decision was rendered the case was taken to the United States Supreme Court to see whether the statute as construed by the Illinois Supreme Court contravened the Fourteenth Amendment to the Constitution of the United States. The United States Supreme Court decided that the provisions of the law



most part those having to do with the operation of machinery, handling of poisonous substances, and work dangerous to life, limb, health, or morals. No female under sixteen might be employed in any capacity which compelled her to remain standing constantly.

The provision of the act of 1897 making the presence of any person under sixteen in any manufacturing establishment, factory, or workshop *prima facie* evidence of his or her employment therein was also incorporated in the new act (sec. 12). The school authorities were required to report violations of the act to the state factory inspectors, who were again charged with its enforcement.

The passage of this law represented a distinct advance in the child-labor legislation of Illinois. The substitution of age and school certificates to be issued only by the school authorities for the old affidavit system, the provision for an eight-hour day and a forty-eight-hour week, the prohibition of night work, the disbarment of children under sixteen from employment in many of the more dangerous occupations, and certain provisions of less individual importance, all taken together gave Illinois one of the best bodies of protective legislation for children to be found at that time in any state.<sup>1</sup>

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involved in this case were not unconstitutional as denying due process of law, as depriving the employer of liberty of contract, or of his property by requiring him at his peril to ascertain the age of the person employed, or as denying him the equal protection of the law. *Sturges & Burn Mfg. Co. v. Beauchamp*, 231 U.S. 320 (1913).

<sup>1</sup> See statement of Charles L. Chute, of the National Child Labor Committee, in the *Survey*, May 27, 1911, p. 322.

In the 1903 *Handbook on Child Labor Legislation*, published by the National Consumers' League, the child-labor law of Massachusetts was printed as the standard statute recommended for enactment in other states. In 1903, however, the laws of Illinois and New York were so improved as to excell the Massachusetts law in several important points. In the 1904 edition of the *Handbook*, therefore, a model law was offered which embodied the best provisions from these three laws. The Illinois provisions included were the sections providing an eight-hour day and a forty-eight-hour week for children under sixteen, and containing the list of occupations prohibited to children under sixteen. See National Consumers' League, *Handbook on Child Labor Legislation*, 1904, p. 11. Also those for 1903, 1905, and 1906. By 1908, five states had adopted the list of occupations prohibited to children by the Illinois law of 1903.

In the opinion of Chief State Factory Inspector Davies, the law was a "very effective and admirable measure"<sup>1</sup> but was faulty in some particulars; namely, it should have required that children be able to read and write legibly simple sentences in the English language, instead of in any language, as well as pass an additional, but simple, educational test;<sup>2</sup> it should have required children between fourteen and sixteen to be either at work or in school; the employment of boys or girls under the age of eighteen in any theater, concert hall, or place of amusement where intoxicating liquors were sold should have been prohibited; girls under eighteen should have been prohibited from working after 9:00 P.M., and provision should have been made for the regulation of the street trades so as to keep children of tender years off the streets at night.<sup>3</sup>

<sup>1</sup> Mr. Davies stated that in 1893 children constituted 8.2 per cent of total persons employed in Illinois, but that this percentage had been reduced to 1.3 by 1908. *Annals of the American Academy*, XXXIII (Supplement for March, 1909), 155.

<sup>2</sup> Perhaps the weakest point in the law was the educational requirement. The National Consumers' League stated in 1906 that twenty-one states had better educational provisions than were contained in the Illinois law. New York, for instance, required for all children under sixteen, a school record certifying that the child had received instruction in reading, spelling, writing, English grammar, and geography, and was familiar with the fundamental operations of arithmetic up to and including fractions. Illinois only required that a child be able to read and write simple sentences in any language, or present a certificate that it was attending night school. See National Consumers' League, *Seventh Annual Report* (1906), p. 79.

<sup>3</sup> See Factory Inspectors of Illinois, *Fifteenth Annual Report* (1907), p. 18. New York was the only state which at that time regulated the employment of children in the street trades.

In 1905, the Illinois General Assembly passed an Adult Delinquency Law (*Laws of 1905*, p. 189) similar to the one then being sponsored by the National Consumers' League. Its purpose was to afford protection to telegraph and messenger boys and other minors exposed to the same moral dangers. The Illinois law provided that any parent, guardian, or other person who knowingly and wilfully caused or permitted a child to become dependent, neglected, or delinquent should be deemed guilty of a misdemeanor and be punished by a fine of not more than \$200 or by imprisonment for not more than 12 months or by both fine and imprisonment. This act was repealed and two stronger acts substituted for it in 1915 (*Laws of 1915*, pp. 368 and 369).

Soon after the law went into effect it was discovered that the clause providing

## APPLICATION OF THE LAW OF 1903 TO COAL-MINING

Soon after the law was passed the question arose as to whether section 11 of the act, which included the words "no child under the age of sixteen years shall be employed at any occupation which may be considered hazardous or dangerous," applied to the employment of boys between fourteen and sixteen in coal mines. Inspector Davies, who was requested by the secretary of the Illinois Coal Operators' Association to give his opinion on the matter, construed this clause as applying to coal mines. The coal operators, through their attorneys, Lawrence and Folsom, took exception to this construction of the act, and contended that section 22 of the Coal Mining Act of 1899 applied instead. It was their contention that since boys over fourteen might be employed in coal mines under the act of 1899 provided they produced affidavits as to their age, and since that act was special legislation enacted upon authority of section 29 of article 4 of the Illinois Constitution, which provided for special legislation for coal mines, the Child Labor Law of 1903, being general in its application, could not repeal this special statute by implication.

Upon further investigation of the subject, Inspector Davies reached the conclusion that his former opinion was correct, and notified the coal operators to cease employing boys under sixteen in any underground employment.

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that in cases in which school, baptismal, or birth records could not be obtained as proof of a child's age the court might issue an age certificate as sworn to by the parent or guardian of the child, was affording a loophole and preventing effective enforcement of the law. Since the law did not provide means of obtaining the necessary information in regard to such children, a conference of interested people, called by Judge Carter of the County Court to devise some means of making this part of the law more effective, decided that in cases in which the parent or guardian could not produce any of the records required by law, the oath should not be administered until the case was referred to the secretary of the Illinois Consumers' League and an investigation made. From September, 1904, to May 12, 1905, Mrs. Harriett Van der Vaart, secretary of the League, investigated sixty-two cases under this arrangement, and in only two was it impossible to obtain an authentic record of the child's age. In some cases, however, it was found necessary to send to the old country for the required information (*Charities*, June 10, 1905, p. 832; National Consumers' League, *Sixth Annual Report* [1905], p. 53).



This being a technical legal question, the attorneys for the operators and Mr. Davies agreed to bring a test case before the courts for a decision on the matter. An inspector was therefore detailed to make an inspection of a coal mine at Staunton, Illinois, the proprietors of which were members of the Illinois Coal Operators' Association. Deputy Inspector William Ehn, who made the inspection, reported that he had found in the Staunton coal mine four boys under the age of sixteen years employed at various occupations. Information was then filed through the state's attorney of Macoupin County. The case was seriously contested, the defendant, Mr. Struthers, manager of the mine, being represented by attorneys Lawrence and Folsom. On conclusion of the evidence, the court upheld the law and imposed the minimum fine upon Mr. Struthers. The case was appealed to the Third District Appellate Court at Springfield, which sustained the decision of the lower court and the contention of Mr. Davies.<sup>1</sup>

After this decision was rendered a conference was held between the chief factory inspector and the attorneys for the Coal Operators' Association, and an agreement entered into that no action should be taken by the factory inspector's department against the operators until the executive committee of the Association had had an opportunity to consider whether an appeal should be taken from the Appellate Court's decision. Within a few days, the Association's attorneys notified the chief factory inspector that a decision had been reached not to appeal from the Appellate Court's decision, but to accept and comply with the same; and instructions were issued to the various owners and managers of mines located throughout Illinois that children under the age of sixteen should no longer be employed in the coal mines. This resulted in some 2,200 children being discharged from the coal mines of the state.<sup>2</sup>

In 1905, the legislature passed an act which amended section 22 of the Coal Mining Act of 1899 by prohibiting any boy under the age of sixteen from doing any manual labor in or about any coal mine, and requiring that every boy should produce to the mine

<sup>1</sup> *Struthers v. People*, 116 Ill. App. 481 (1904).

<sup>2</sup> Factory Inspectors of Illinois, *Eleventh and Twelfth Reports* (1903-4), pp. xi-xiii.



operator an affidavit from his parent or guardian to the effect that he was sixteen years of age before he should be permitted to work in any mine. As in the previous act, all females were prohibited from doing manual labor in or about any mine.<sup>1</sup> This act served to clarify the situation which gave rise to the controversy just discussed.<sup>2</sup>

EFFORTS TO AMEND THE LAW OF 1903, BY INCLUSION  
OF THE STREET TRADES

In 1911, efforts were made both to weaken and to strengthen the law, but both movements failed. On November 2, 1910, the Consumers' League of Illinois called a meeting of representatives of various clubs and other organizations interested in child welfare to lay plans for the regulation of the street trades, such trades not being affected by the Child Labor Law. There was a large response to this call, and those present were addressed by Miss Jane Addams, and the situation in Chicago was discussed by the secretary of the League. A committee composed of representatives of the Board of Education, the Mothers' Congress, the Juvenile Protective League, and the Consumers' League was appointed to take immediate steps to secure the enactment of a suitable law. A bill was drafted and introduced into the legislature, but it died in the House Committee on Labor and Industrial Affairs.<sup>3</sup>

<sup>1</sup> *Laws of 1905*, p. 326.

<sup>2</sup> The enforcement of this law was difficult since the system of affidavits, which it retained, instead of preventing children under sixteen from working in the mines, merely induced perjury by the parents. The revised mining code of 1911 required a certificate of birth, a baptismal certificate, a passport or other official or religious record of the boy's age to be submitted with the affidavit. Any person swearing falsely in regard to the age of a boy was declared to be guilty of perjury and was to be punished as provided in the general statutes of the state pertaining to perjury. These provisions were recommended by the Mining Investigation Commission in order to increase the certainty of enforcement. Illinois Mining Investigation Commission, *Report* (1911), p. 8. By the adoption of the age limit of sixteen years for boys working in coal mines, Illinois adopted what was believed by the Mining Investigation Commission to be the highest standard in effect in any state or country (*ibid*). It is true that Pennsylvania had a similar age limit, but it applied only to the underground workers in the anthracite mines of the state.

<sup>3</sup> H.B. No. 260. National Child Labor Committee, "Uniform Child Labor Laws," *Proceedings of the Seventh Annual Conference* (1911), p. 160.

EFFORTS TO AMEND THE LAW OF 1903, BY EXEMPTION  
OF STAGE CHILDREN FROM ITS PROVISIONS

The effort to weaken the law was made by "The National Alliance for the Protection of Stage Children" and certain theatrical interests of Chicago. The bill introduced at their request provided for a system of written permits for the employment of children on the stage similar to that in force in New York. In its final form the bill allowed circuit judges or judges of the juvenile courts to issue a permit to a child of any age to appear on the theatrical stage, and it was left almost entirely to the judge to investigate and decide in each case whether such employment would be beneficial or harmful. The state factory inspector was to be given "forty-eight hours' notice and an opportunity to be heard." Such a provision would undoubtedly have been of little value as a safeguard.

The theatrical interests were strongly represented, and the contest was given greater significance by the appearance of twelve or fifteen prominent theater people from New York—actors, playwrights, and managers—who argued their position before the Senate subcommittee in a brilliant hearing of three hours' duration. Their argument was almost wholly from the standpoint of the need of the theater for the child.

Prominent persons interested in child welfare, led by Miss Jane Addams, opposed the bill from the start. At numerous hearings before both the Senate and the House committees, representatives of the Chicago Juvenile Protective Association, the Mothers' Congress of Illinois, the Illinois State Federation of Women's Clubs, the Illinois State Federation of Labor, and the State and the National Child Labor Committees opposed the bill. Their plea was wholly from the standpoint of the child and its right to normal and healthful conditions. Stage life as it then existed was shown to be full of dangers. The position of the opponents of the early employment of children on the stage was well stated by Miss Addams, who said:

If this bill becomes a law it will mean that hundreds of children under fourteen, all the more because they cannot become industrial wage-earners, will be employed in our theaters, and, though the theater managers

will reap a rich harvest, the state will be poorer, because it is a hundred fold more costly to reform delinquents than it is to retain the law which at present removes these children from temptation and safeguards their social life.<sup>1</sup>

The strong statement of a leading American actress, Blanche Bates, appearing in the *Dramatic Mirror* of May 3, 1911, in an article on "The State and Stage Children," did effective service in Springfield. A copy was placed on the desk of every senator. Miss Bates said: "A child is more apt to be completely and irrevocably ruined by the artificiality of the stage than to be elevated and ennobled."<sup>2</sup>

The bill failed by one vote to receive a constitutional majority in the Senate, and was tabled in the House.<sup>3</sup>

#### A FURTHER ATTEMPT TO STRENGTHEN THE LAW

In 1915, the Illinois Committee on Social Legislation, of which Mr. James Mullenbach was executive officer, and Professor James H. Tufts the chairman of the board of directors, had a bill introduced into the legislature by Representative Shurtleff, which, if enacted into law, would have amended the Child Labor Law of 1903 in several important respects. As originally introduced the bill provided for a sixteen-year age limit during the school term and a fourteen-year limit during vacations, required work permits for children between sixteen and eighteen, and special summer-vacation work permits for children between fourteen and sixteen, provided for an eight-hour day for boys under sixteen and for girls under eighteen, permitted no night work except that girls between sixteen and eighteen might appear on the stage at night, fixed the age limit for night messengers at twenty-one years, required children under eighteen to submit to a physical examination by physicians of the State Department of Factory Inspection, and permitted revocation of work certificates of children who were physically unable to work.

<sup>1</sup> *Survey*, May 27, 1911, p. 333.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Senate Journal*, 1911, p. 1368, S.B. No. 483; *House Journal*, 1911, p. 1067, H.B. No. 609.



The hearings on this bill, which covered a period of almost two months, were of unusual interest. Such a bill naturally met with strong opposition. A Peoria department store owner said, "The bill, if it passes, will develop a first-class bunch of loafers." Other merchants claimed their business would be ruined by such a law. One man said he would not be able to hire errand boys because boys over sixteen sought more skilled employment. The old plea that the restriction of children's labor works hardship on poor families cropped up frequently during the hearings and finally resulted in an amendment to allow children over fourteen to work outside of school hours. Even as amended, the bill was condemned by certain members of the House as constituting an invasion of the sanctity of the home, and as being part of a system of paternalism which was "bringing up a nation of sissies" and "taking away from the father and the mother the responsibility of their brood."<sup>1</sup>

The testimony for the bill was quite striking. A mother who had worked nineteen hours a day to keep her three children in school stated that the child's place was in school and on the playground. An Alton laundry-owner favored a flat sixteen-year age limit with no special permits because he believed children should be in school until they were sixteen and ought not work and go to school at the same time. For the same reason he opposed continuation schools that allowed children to work forty or fifty hours a week and then go to school five or six hours more. Several manufacturers wrote to the committee urging passage of the bill, and, according to the *Chicago Daily News*, they all stated that "the highest business efficiency demands the elimination of children under sixteen years old from industrial pursuits."<sup>2</sup>

On second reading the Committee on Industrial Affairs secured the adoption of eleven amendments which made the bill less restrictive. Conditions of child labor were much worse in Chicago than in most other parts of the state, and the restrictive provisions of the original bill were amply justified for Chicago conditions; but such restrictions were believed to be unfair to the down-state

<sup>1</sup> *House Debates* (1915), p. 530.

<sup>2</sup> *Survey*, May 8, 1915, pp. 129-30.



sections and the amendments were made accordingly.<sup>1</sup> The bill was then ordered to a third reading.

In the meantime, Representative Graham, who was much exercised about the bill because it would have prevented boys under fourteen from working, told its sponsors that he could not support it in that form. He therefore made an agreement with Mr. Mullenbach and others favoring the bill that he would support it if they would endeavor to secure amendments in the Senate (provided the bill passed the House), permitting boys to be employed in agriculture<sup>2</sup> or in the distribution of newspapers and periodicals during hours when the public schools were not in session, and excluding from the meaning of the term "employed in agriculture," employment in a canning or preserving establishment; but that unless these amendments were adopted by the Senate they would not ask for further advancement of the bill in the Senate, and would use all reasonable efforts to prevent such advancement.<sup>3</sup> It was thought best not to attempt to secure these amendments in the House since such efforts might have resulted in killing the bill.<sup>4</sup> The bill, however, was recalled to second reading and the amendments incorporated in it. It then died on the order of third reading.

After the defeat of the 1915 bill, the State Department of Factory Inspection made a special investigation for the purpose of discovering the real views of the employers of the state regarding

<sup>1</sup> *House Debates* (1915), p. 532.

<sup>2</sup> In 1907, a bill was discussed in one of the legislative committees which would have enabled truck gardeners around Chicago and farmers throughout the state to employ children under certain conditions below the so-called factory age. The state factory inspector objected to the insertion of this exception on the ground that it would endanger the constitutionality of the whole law (*City Club of Chicago, Bulletin*, I, No. 5 [March 20, 1907], 79).

In a recent investigation, the United States Children's Bureau found that the provisions of the Illinois Child Labor Law had not been applied to the work of children on farms and truck gardens, and that little thought had been given to the need for protecting child workers in agriculture from work either at too early an age or for too long hours (U.S. Children's Bureau, Publication No. 168, entitled *Work of Children on Illinois Farms*, p. 31).

<sup>3</sup> *House Journal*, 1915, p. 828.

<sup>4</sup> *House Debates* (1915), p. 717.

further restriction upon child labor. In spite of the defeat of the bill, employers generally were found to be in favor of further restriction.<sup>1</sup>

#### THE LAW OF 1917 GREATLY IMPROVES THE CERTIFICATING SYSTEM

The passage of the federal Child Labor Act<sup>2</sup> of September 1, 1916, to go into effect one year later, was the occasion for the passage of a new law by the Illinois General Assembly.<sup>3</sup> In order to avoid the expense and inconvenience of a double certificating system to the interested parties, it was important that state certificates should be accepted for the purposes of the federal act. The board charged with the administration of the federal law sent a letter to the governors of the various states calling attention to its provisions and expressing a desire to prevent the confusion of a double certificating system. The letter made two alternative suggestions, either of which it was stated would lead to the designation of the state as one whose certificates were acceptable in fulfillment of the requirements of the federal act. These suggestions were: (1) that the legislatures of the several states consider the advis-

<sup>1</sup> John M. Glenn, secretary of the Illinois Manufacturers' Association, attempted to block this investigation by advising employers to ignore the questionnaire sent out by the factory inspection department. As a rule, however, his advice was not followed. See Illinois State Department of Factory Inspection, *Twenty-second Annual Report* (1915), pp. 30-43.

It may be mentioned in this connection that the fears of certain employers that their business would be severely injured by restrictions upon the hours of labor for children proved to be groundless. A special investigation by an agent of the National Child Labor Committee in Illinois, Ohio, and New York, where eight-hour laws had been in operation for several years, showed that employers had found no difficulty in readjusting schedules to obey the law, that the eight-hour day had not handicapped business, and that no cases of failure or removal from the state had resulted. On the contrary, the industries involved had steadily grown (National Child Labor Committee, *Bulletin*, II, No. 4 [February, 1914], 44).

<sup>2</sup> The federal act was one to prevent interstate commerce in the products of child labor, and thus indirectly to restrict the employment of children. It was declared unconstitutional by the United States Supreme Court in the case of *Hammer v. Dagenhart*, 247 U.S. 251 (1918).

<sup>3</sup> *Senate Debates* (1917), p. 751.

ability of constituting a board of state officials similar to the federal Child Labor Board, or of designating an appropriate state official with general power to make rules and regulations respecting proof of age under the state child-labor laws, in order to secure conformity to the federal Child Labor Law and the rules and regulations thereunder; or (2) if any state did not desire to grant the administrative power recommended above, that its legislature be asked to enact in lieu thereof certain stated requirements for proof of age of children seeking employment.<sup>1</sup>

The Illinois legislature elected to follow the second suggestion. Section 5 of the new law<sup>2</sup> provided that employment certificates might be issued only by the proper school authorities upon the application in person of the minor desiring employment accompanied by his parent, guardian, or custodian, and after having received, examined, and approved the following papers, namely, the school record of the child, a certificate of physical fitness, proof of age, and a statement signed by the prospective employer stating that he expected to give such minor present employment, setting forth the character of the same, and the number of hours per day and of days per week which said minor was to be employed.

The school record was to certify that the child could read and write legibly simple sentences in the English language, and that he had completed a course of study equivalent to the first five years of the public elementary schools, and attended school for at least 130 days during the year preceding the date of his application for his first employment certificate, or between his thirteenth and fourteenth birthdays.

The certificate of physical fitness was to be made out by a physician appointed by the municipal health department or the local school authorities. It was to certify that the physician had thoroughly examined the child at the time of his application for an employment certificate and found him physically qualified for the employment he proposed to enter.

<sup>1</sup> United States Children's Bureau, Publication No. 78, *Administration of the First Federal Child-Labor Law*, pp. 16-17.

<sup>2</sup> *Laws of 1917*, p. 511.



Evidence of age was to consist of one of the following proofs which were to be required in the order designated:

- a. A transcript of the birth certificate.
- b. A baptismal certificate.
- c. A passport showing the age of the child.

d. Other documentary record of age, such as an official certificate of arrival in the United States, bona fide Bible record, confirmation certificate, or life insurance policy which were at least one year old at the time of the minor's application for the permit. Or, in case none of these was obtainable, a school record of two years' standing might be accepted.

e. A statement signed by two physicians, at least one of whom was required to be a public health officer or a public school physical inspector, stating that they had separately examined the child and that in their opinion he was at least fourteen years of age.

Provisions governing employment certificates were carefully drafted to promote easy enforcement. The list of employments covered by the act was changed slightly to conform to the list in the federal act. Other provisions of the 1903 law were practically unchanged. The Department of Labor, created by the Civil Administrative Code of 1917, was charged with the enforcement of the law; and its representatives were to visit *all places* where minors were, or might be, employed.

It will be seen that this law, which was passed without opposition on the part of either the manufacturers or labor,<sup>1</sup> almost revolutionized the certificating system used in connection with the regulation of child labor. There was, however, an absence of state supervision or control, so that the law could not be evenly enforced. While the state factory inspector endeavored to bring about some uniformity, he was without authority over the school superintendents and principals.<sup>2</sup>

Other important changes were the requirement that the child have schooling equal to that prescribed for the first five years of

<sup>1</sup> *House Debates* (1917), p. 1258.

<sup>2</sup> See United States Children's Bureau, *op. cit.*, p. 65.



the public elementary schools before a certificate of employment might be granted, and that he submit to an examination to establish his physical fitness for the work contemplated.

#### THE AMENDMENT OF 1921

In 1921, an act<sup>1</sup> was passed amending certain sections of the act of 1917. Children under sixteen years of age were not to be employed in any employment found by the Department of Labor to be dangerous to their lives, limbs, health, or morals.<sup>2</sup> Completion of the first six years of the public elementary schools was required instead of only five as in the former act.<sup>3</sup>

[It should be mentioned that the proposed child-labor amendment to the federal Constitution has not yet been presented to the Illinois General Assembly for ratification.]

<sup>1</sup> *Laws of 1921*, p. 435.

<sup>2</sup> The Department of Labor has included in the list of occupations prohibited to children several not specifically enumerated in the law. See the *Labor Bulletin*, September, 1927, p. 43.

<sup>3</sup> In 1927, the Illinois Child Labor Committee, with the support of many other organizations, attempted unsuccessfully to secure the enactment of a law requiring completion of the eighth grade before children between the ages of 14 and 16 might be employed. See Illinois State Federation of Labor, *Weekly News Letter*, July 23 and September 10, 1927.

Publication No. 114 of the United States Department of Labor, Children's Bureau, entitled *Child Labor in the United States*, states that the Illinois child-labor law as of December 1, 1923, was equal or superior to the standards for factories of the first and second federal laws.

## CHAPTER VIII

### THE WORK-DAY AND THE WORK-WEEK

In Illinois, the movement to secure legal enactments limiting the extent to which employers may make demands upon the time of their employees has had two goals in view, namely, a reduction in the number of hours that shall constitute the work-day and a reduction in the number of days that shall constitute the work-week. The movement to secure a shorter legal work-day flourished in the sixties and the eighties, but in recent years has been stressed very slightly except as regards the hours of labor for women, a topic which is dealt with in a separate chapter. The movement to secure a shorter legal work-week at first had in view the prohibition of Sunday labor, this being the goal in the eighties and the nineties. During the last fifteen years, however, it has become generally recognized that some industries would be greatly inconvenienced if Sunday labor were prohibited; therefore, the recent movement demands "one day's rest in seven."

#### THE WORK-DAY

Although<sup>1</sup> wages increased during the Civil War period, they did not keep pace with the rapidly increasing cost of living. Organization of the workers into labor unions was therefore greatly stimulated. Within a few months' time some twenty trade unions and a central body were formed in Chicago. Workingmen in Springfield and other cities of the state also were organizing. Numerous strikes occurred.

As organization proceeded and as class consciousness developed, workingmen recognized the possibility of exerting influence through political action, and in 1864, when many workers were alienated from Lincoln by his war policies, a Chicago mass-meeting of work-

<sup>1</sup> For the most part this account of the struggle in the sixties follows the account given in *Centennial History of Illinois*, III, 368-71.

ingmen proposed an independent "labor party." Both Republicans and Democrats attempted to head off the movement and were very zealous in their efforts to placate labor. In 1866, when the workers, inspired by the philosophy of Ira Steward, launched their widespread eight-hour movement and organized an eight-hour league to support only eight-hour men, all candidates took up the idea. As a consequence, a legislature was elected which enacted a law in 1867 making eight hours a legal day's work. This was the first of a series of eight-hour laws passed by various states. The text of the law is as follows:

SECTION 1. On and after the first day of May, A.D. 1867, eight hours of labor, between the rising and the setting of the sun, in all mechanical trades, arts and employments, and other cases of labor and service by the day, except farm employments, shall constitute and be a legal day's work, where there is no special contract or agreement to the contrary.

SECTION 2. This act shall not apply to or in any way affect labor or service by the year, month or week: nor shall any person be prevented by anything herein contained from working as many hours overtime or extra hours as he or she may agree, and shall not, in any case, be held to apply to farm labor.<sup>1</sup>

The employers, however, were unwilling to shorten the work-day to eight hours, and, upon agreement among themselves, notified their employees that anyone unwilling to work ten hours a day might consider himself discharged. This angered the workers, who immediately organized themselves through the Illinois Labor Convention to secure the advantages of the law. A general strike was to be instituted on May 1 at a great demonstration held in Chicago. Public opinion, influenced in part by the newspapers, became unfavorable to the workers; but strikes broke out all over the state on the appointed day, and work was generally suspended. In Chicago serious rioting occurred between strikers and men remaining at work. Governor Oglesby, who had previously indicated his desire to see the eight-hour law enforced, took no action; but Mayor John B. Rice of Chicago, sensing the growing reaction against the law, issued a proclamation on May 3 calling attention to the law of

<sup>1</sup> *Laws of 1867*, p. 101.

1863 which prohibited any person from preventing any other person from working at any lawful occupation on any terms he might see fit and from combining for the purpose of depriving the owner or possessor of property of its lawful use and management.<sup>1</sup> The loosely organized workers were gradually compelled to abandon the strike, an eight-hour day with eight hours' pay having been granted in only a few cases. By the first week in June, 1867, the struggle was practically over, and the law has remained a dead letter since that time, although it is still on the statute books.<sup>2</sup>

A careful reading of the Eight-hour Law of 1867 will convince one that the law could be of very little practical value to the workers. Not only were agricultural workers and workers employed by the week, month, or year excluded from its operation, but workers in mechanical trades who worked by the hour might lawfully make agreements with their employers for a longer day's work. A man taking employment in a factory working more than eight hours a day is naturally assumed to have contracted for the longer day. In addition to these weaknesses in the law, no penalty was provided for employers or workers affected by the law but who adhered to a work-day more than eight hours in length, and no system of inspection was provided to insure its enforcement.

When the eight-hour movement flared up again in the eighties, efforts were made to put teeth into the law of 1867. The platform of the Illinois State Federation from 1884 to 1890 consistently demanded the enactment and enforcement of a real eight-hour law.<sup>3</sup> The Knights of Labor supported the movement for an eight-hour day by exerting pressure upon the General Assembly to pass an adequate law, as well as by direct action in the form of strikes and boycotts. All labor unions urged workingmen to support candidates favorable to a law penalizing employers for requiring employees to work more than eight hours a day. In spite of these efforts,

<sup>1</sup> The La Salle Black Law. See above, p. 9.

<sup>2</sup> *Knights of Labor* for July 10, 1886, said: "The eight-hour law as it now stands on the statute books of Illinois is a dead letter. There is not one person in a thousand that knows there is such a law" (p. 8).

<sup>3</sup> Staley, *History of the Illinois State Federation of Labor*.



however, organized labor was unable to secure the enactment of a more stringent law. Mr. A. C. Cameron, referring to the failure to establish eight hours as a legal day's work, stated that events of the time (about 1886) must have convinced the most skeptical that it was virtually impossible for any city or state enforcing an eight-hour day to compete successfully with other sections of the country where ten hours were considered a day's work and where contracts were entered into on that basis.<sup>1</sup> This situation probably accounts for the fact that in 1889 efforts were made to secure the enactment of an eight-hour law applying only to municipal, county and state employees, and to some twenty-five enumerated employments which were non-competitive with those of other states.<sup>2</sup> No action was taken by the General Assembly on this bill. In 1891, efforts were again made to secure an eight-hour law, but this time only agricultural employments were exempted. The employers successfully opposed these bills (H.B. No. 13; S.B. No. 38) on the grounds that laws of this kind were paternalistic in nature and interfered with a matter that should be left to voluntary adjustment between employer and employee, and that because of lowered production, if the working day were shortened, they would amount to taking private property without providing compensation therefor.<sup>3</sup>

Efforts have been made at various times since 1891 to secure the passage of laws limiting the hours of employment of certain workers, such as pharmacists and drug clerks, telegraphers, locomotive engineers, firemen, conductors and brakemen, expressmen and baggagemen, and certain street and elevated railway em-

<sup>1</sup> From an account of the Illinois Labor Convention of 1886, given in *Chicago Times*, June 2, 1886.

<sup>2</sup> *Knights of Labor*, March 23, 1889.

<sup>3</sup> In regard to the anticipated decrease in production, the workers asserted that this argument had been disproved half a century earlier when it was feared that a reduction in hours would decrease production. They stated that progress in art and invention had made possible an increased production even though hours had been reduced, and claimed that the same thing would occur if hours were reduced to eight per day. See Illinois Bureau of Labor Statistics, *Sixth Biennial Report* (1890), pp. 400, 417, where a protest and argument of Illinois coal operators against adverse legislation and a reply by the Illinois coal-miners are given.

ployees. None of these bills has been passed. In 1921, a resolution was offered in the House of Representatives providing for a House committee to investigate the labor situation in the steel industry of Illinois for the purpose of ascertaining whether or not an eight-hour day could be successfully substituted for the twelve-hour day. This resolution was introduced because of the unemployment existing at the time in the hope that if the plan were feasible, the steel companies might hire additional men when shortening the work-day and thus relieve the bad unemployment situation. No further action was taken by the House.

Laws have been passed, however, regulating the hours of employment of certain municipal employees. In 1913, the General Assembly enacted a law which provided that the members of fire departments in cities and villages should not be compelled to work more than ten hours during the day or fourteen hours during the night, except in cases of great emergency or necessity. Working hours were to be arranged so that all employees should work an equal number of hours each month. The operation of this law depended on its approval by a referendum vote of the municipalities affected.<sup>1</sup> No penalty was provided for violations, and the law could therefore not be counted upon to establish further powers of the state to enact laws making further limitations upon the hours of human labor. This law was advocated by a committee from the Chicago Fire Department, but also received the support of other labor bodies.<sup>2</sup> A mandatory law of a similar nature was passed in 1921.<sup>3</sup> Members of fire departments in cities of over 12,000 were not to be required to remain on duty for periods of time averaging more than twelve hours a day in any given month. The act did not apply to the person in command of a fire department, employees subject to call, or in serious emergencies such as conflagrations or riots.<sup>4</sup>

<sup>1</sup> *Laws of 1913*, p. 146.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Labor Legislation of the 48th General Assembly* (1913), p. 11.

<sup>3</sup> *Laws of 1921*, p. 188.

<sup>4</sup> A bill was passed in 1891 (*Laws of 1891*, p. 107 [117], sec. 25) allowing employees two hours' time in which to vote, and prohibiting employers from deduct-

The trade-union movement at the present time favors shorter hours of work for men through collective agreements with employers, rather than through legislative enactments. Many unions have obtained a work-day of eight hours or less by exerting direct pressure upon the employers. While some non-union industries have an eight-hour day, many work longer hours than this. The workers in such industries are inarticulate and cannot exert pressure in an effective way either upon their employers or upon the legislature to obtain shorter hours. In any case, it is very doubtful whether the Illinois Supreme Court would uphold a general eight-hour law or any other law limiting the hours of labor for men. A law of this nature would interfere with "freedom of contract" between men who are assumed by the courts to be free in practice as well as in theory. It might also be attacked upon the ground that it would be equivalent to the taking of property without due process of law. The Illinois courts would probably not permit an extension of the police power of the state to cover such a law. Although the United States Supreme Court has upheld an eight-hour law as applied to mining, and although the Illinois court might permit an extension of the police power to cover a similar statute, no law of this kind is needed in Illinois since the coal miners have had an eight-hour day for several years through agreement with the operators.<sup>1</sup>

#### THE WORK-WEEK

The second session of the First General Assembly of Illinois, meeting in 1819, passed a law prohibiting any person from "doing or performing any worldly employment or business whatsoever on

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ing wages or otherwise penalizing their employees because of such loss of time. It was extended in 1910 (*Laws of 1909-10*, p. 46 [50], sec. 7) to apply to primary elections. In 1923, however, the Illinois Supreme Court declared unconstitutional the provision requiring payment for the two hours' time allowed for voting (*People v. Chicago, Milwaukee & St. Paul R. R. Co.*, 306 Ill. 486 [1923]).

The eight-hour day was established for the prison industries of Illinois in 1903 (*Laws of 1903*, p. 271, sec. 6).

<sup>1</sup> An eight-hour law might be of some value to the few metal miners in the state.



the first day of the week commonly called Sunday, (works of necessity and charity only excepted)" under penalty of a fine of two dollars and costs. A proviso, however, specifically stated that nothing contained in the law should "be construed to hinder watermen from landing their passengers, or ferrymen from carrying over the water, travellers or persons removing with their families, on the first day of the week, commonly called Sunday."<sup>1</sup>

This law, which prohibited Sunday labor as such, with certain exceptions, remained unchanged until the revision of the statutes in 1845. The new law, which is still on the statute books, provided that "any person who shall hereafter knowingly disturb the peace and good order of society by labor or amusement on the first day of the week, commonly called Sunday, (works of necessity and charity excepted), shall be fined, upon conviction thereof in any sum not exceeding five dollars." To the exemptions of the earlier law was added the right of any person to keep any other day as a Sabbath if his conscience so dictated.<sup>2</sup>

It will be noted that the offense under the 1845 law was the doing of Sunday labor which "disturbed the peace and good order of society";<sup>3</sup> whereas under the earlier law, Sunday labor in itself constituted the offense. Both of these laws reflected the moral and religious feeling of the time, and were not enacted because of demands by labor organizations or for economic reasons. Sunday labor, except in cases of necessity or charity, was "wrong"—and therefore it was prohibited.

In the eighties there was a strong movement among workingmen, as well as among the churches, for a law prohibiting Sunday work.<sup>4</sup> It was believed that the penalties for violation of the exist-

<sup>1</sup> *Laws of the First General Assembly of Illinois*, Second Session (1819), p. 123.

<sup>2</sup> *Revised Statutes* (1845), p. 177, sections 144-45. The fine has been increased since this time.

<sup>3</sup> In the case of *Johnson v. People*, 42 Ill. App. 594 (1891), the court held that the statute did not render Sunday labor in itself punishable, but Sunday labor which disturbed the "peace and good order of society."

<sup>4</sup> The law of 1867, providing for the management of the Illinois State Penitentiary at Joliet, prohibited Sunday labor of convicts in the penitentiary, except such labor as was "necessary" (*Laws of 1867, Second Special Session*, p. 31, sec. 28).



ing Sunday law were too small. Larger fines, with imprisonment for a second or subsequent offense, were advocated.<sup>1</sup> Sunday closing and evening closing were advocated by clerks in the down-town stores of Chicago beginning with the year 1883.<sup>2</sup> The movement reached a temporary peak in 1887-88, when Sunday closing was made an issue by the labor party in Chicago.<sup>3</sup> A bill which was drafted by a joint committee representing the Clerks' Assembly, the Sabbath Association, and District Assemblies 24 and 37 of the Knights of Labor was introduced into the General Assembly of 1887, and received the endorsement of the House subcommittee appointed to consider it.<sup>4</sup> In spite of strong support by the working-men and the churches, the bill was not passed.

The next Sunday-closing movement in Illinois was sponsored chiefly by the barbers, and seems to have been part of a widespread effort of the Journeymen Barbers' International Union to obtain Sunday-closing laws in various states.<sup>5</sup> In 1893, a bill was introduced into the Senate making it a misdemeanor to carry on the business of barbering on Sunday, but nothing came of it. In 1895, however, they succeeded in securing the passage of a bill of this kind.<sup>6</sup> A Sunday-closing Association, composed of 1,500 or more barbers, tried to secure its enforcement.<sup>7</sup> In the following year, a case was brought before the Illinois Supreme Court, however, and the act declared unconstitutional on the grounds that it deprived barbers of property without due process of law, and was unequal in its operation in that it prohibited barbers from doing business on Sunday without including any other type of business in its scope.<sup>8</sup>

<sup>1</sup> *Knights of Labor*, March 19, 1887.

<sup>2</sup> *Ibid.*, February 12, 1887.

<sup>3</sup> E. Staley, *History of the Illinois State Federation of Labor*.

<sup>4</sup> *Knights of Labor*, April 2, 1887.

<sup>5</sup> See *Cigar Makers' Official Journal*, December, 1891.

<sup>6</sup> *Laws of 1895*, p. 160.

<sup>7</sup> *Eight-Hour Herald*, December 28, 1895.

<sup>8</sup> *Eden v. People*, 161 Ill. 296 (1896). It is interesting to note that the United States Supreme Court three years later upheld a similar act passed in Minnesota, in *Petit v. Minnesota*, 177 U.S. 164 (1899).

In 1903, the Illinois Retail Clerks' Association tried unsuccessfully to secure the passage of a bill prohibiting Sunday work in any shop or factory, store, or room in Illinois, except the operation of railroads or street cars, and the selling of drugs, medicines, cigars, and tobacco at retail.<sup>1</sup>

The movement for "one day's rest in seven," which has taken the place of the Sunday-closing movement, has been gaining momentum since 1913, when four bills of this kind were introduced into the General Assembly. In 1915, one bill passed the House, but the Senate amended it in such way that the House refused to concur. In 1923, the bill received support from many sources. In addition to numerous prominent labor leaders of Illinois, the following persons, among others, spoke in favor of the bill at a hearing granted by the House Committee on Industrial Affairs on April 11, 1923: Dr. John B. Andrews, secretary of the American Association for Labor Legislation; Dr. Fleming and Dr. Quale, representing the Chicago Church Federation; and the Rev. J. W. R. Maguire, representing the National Catholic Welfare Council.<sup>2</sup> One week later, the opponents of the bill were granted a hearing by the committee. Among the speakers were representatives of the Illinois Manufacturers' Association, the Associated Employers of Illinois, the cement and zinc manufacturers of Illinois, and the Illinois telephone interests.<sup>3</sup>

The arguments advanced by the organized labor movement in favor of one day of rest in seven may be summarized as follows: Practically every investigation that has been made has shown that the seven-day week breaks down the worker's home life, his health, efficiency, and ambition, and tends to lower his standard of living; progress toward a higher civilization is therefore inhibited and our constitutional government is undermined.<sup>4</sup> Most of the

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1903 Convention*, p. 33.

<sup>2</sup> Illinois State Federation of Labor, *Weekly News Letter*, April 14, 1923.

<sup>3</sup> *Ibid.*, April 21, 1923.

<sup>4</sup> See Illinois State Federation of Labor, *Report of the Joint Labor Legislative Board of Illinois* (1921), pp. 31-32.

opponents of the measure agree that the principle of one day of rest in seven is valid, but assert that its application is impracticable in many cases.<sup>1</sup>

NOTE.—Mention may be made at this point of certain legal holidays observed in Illinois. These are January 1, February 12, February 22, May 30, July 4, October 12, November 11, December 25, the first Monday in September (Labor Day), Thanksgiving Day, and the days on which general elections for members of the Illinois House of Representatives are held. These holidays are provided for in laws dealing with elections, schools, and negotiable instruments.

<sup>1</sup> See *Weekly News Letter*, April 21, 1923.

## CHAPTER IX

### HOURS OF LABOR FOR WOMEN

The first law enacted in Illinois containing provisions regulating the employment of women was that of March 27, 1872, entitled "An Act providing for the health and safety of persons employed in coal mines."<sup>1</sup> Inserted among provisions of section 6 of this act regulating the nature of the hoisting apparatus and signal system to be used in coal mines of the state and prescribing the penalties to be imposed for violations of this and other sections of the act, we find that no "female of any age shall be permitted to enter any mine to work therein." This provision, which was retained in each successive revision of the mining code of Illinois, was even then probably no more than a recognition of an existing usage.<sup>2</sup>

#### THE SWEATSHOP ACT OF 1893

Aside from this restriction, no further legislation regulating the employment of women was enacted until 1893, when the Sweatshop Act was passed. In this act, which was an outgrowth of a tremendous agitation among the people of the state over the evils of the sweatshop, was included a radical (in those days) and ill-considered measure prohibiting the employment of any female in any factory or workshop for more than eight hours in any one day or forty-eight hours in any one week (sec. 5).

#### THE FIRST RITCHIE CASE

When the factory inspectors attempted to enforce this section they met with determined opposition by the employers. Employers in many industries throughout the state formed the Manufacturers' Protective Association (later the Illinois Manufacturers' Association), whose purpose was announced to be the overthrow of the

<sup>1</sup> *Laws of 1871-72*, p. 568.

<sup>2</sup> The United States Census of 1870 (I, 692) gives six as the number of women in Illinois employed in the various branches of mining.



eight-hour provision. Its members were assessed, and the response was liberal and prompt. Excellent legal talent was retained. The Association proposed that a test case be brought before the courts covering all the points at issue, and that pending the decision of the Supreme Court upon this agreed case, all efforts of the inspectors to enforce the act should be suspended. Bearing in mind the long delay that is usually involved before a final decision can be obtained from the Supreme Court, the factory inspectors rejected this proposal, and instead brought suit against all the employers whom they could prove had violated the eight-hour section. After thirteen cases involving members of the Manufacturers' Protective Association had been decided in favor of the factory inspectors by the lower courts, the Association appealed to the higher courts, nine cases being carried to the Supreme Court.<sup>1</sup> One of these cases involved W. C. Ritchie and Company, of Chicago, manufacturers of paper boxes, and the Illinois Supreme Court, on March 14, 1895, held the eight-hour section unconstitutional in this case.<sup>2</sup>

The court held this section unconstitutional on the grounds that it was partial and discriminatory in character, that it placed an arbitrary restriction upon the fundamental right of the citizen to control his or her own time and faculties, and that it was a substitution of the legislative judgment for that of the employer and employee in a matter about which they were competent to agree with each other. It assumed to dictate to what extent the capacity to labor might be exercised by the employee, and took away the right of private judgment as to the amount and duration of the labor to be put forth in a specific period.<sup>3</sup> The court refused to

<sup>1</sup> Mrs. Florence Kelley, "Need of Uniformity in Labor Legislation," in International Association of Factory Inspectors, *Proceedings of the Eighth Annual Convention* (1894), pp. 23-24; *Eight-Hour Herald*, April 25, 1894.

<sup>2</sup> *Ritchie v. People*, 155 Ill. 98 (1895).

<sup>3</sup> The language of the general eight-hour law of 1867 was praised because it included the words "where there is no special contract or agreement to the contrary," and "nor shall any person be prevented by anything herein contained from working as many hours overtime or extra hours as he or she may agree" (p. 109). The act of 1893 contained no such provisions.

sustain the act as a police regulation based on the claim that it was designed to protect women, since sex alone was not considered sufficient justification for the exercise of the police power for the purpose of limiting the right of a woman to make contracts.<sup>1</sup> The court did not believe that a case had been made out for legislative limitation of the hours of labor of women to eight per day.

This unfortunate decision only reflects the laissez faire philosophy of the day and shows the general lack of interest and insufficiency of knowledge upon the subject of the effect of long hours of employment upon the health of women and its relation to the welfare of the human race. Be that as it may, the decision effectually closed the question of legislative restriction of the hours of employment of women for a number of years. Not until 1908, when the United States Supreme Court upheld the constitutionality of the Oregon ten-hour law of 1903 in the case of *Muller v. Oregon*, 208 U.S. 412, did the way seem clear for re-enactment of such legislation in Illinois.

#### RENEWAL OF THE STRUGGLE FOR RESTRICTION OF HOURS BY LAW

Soon after the Oregon decision was made public, several conferences of trade-union women representing the different organized trades were held in Chicago to consider the question of presenting a bill to the next legislature. At these conferences it was decided that the bill to be presented should provide for an eight-hour day. After the Industrial Commission, which was at that time considering the question of providing for the health, safety, and comfort of the employees of factories, mercantile establishments, mills, and workshops in Illinois, stated that it could not take up the question of hours of work for women, the Waitresses' Union No. 484, of Chicago, with the co-operation of the Women's Trade Union League, prepared a bill providing that no female should be employed in any manufacturing, mercantile, or mechanical establish-

<sup>1</sup> Toward the end of its opinion the court was careful to state: "We do not wish to be understood by anything herein said as holding that section five would be invalid if it was limited in its terms to females who are minors" (p. 123), thus leaving the way open to legislative restriction of the hours of employment of females under legal age.

ment, laundry, hotel, or restaurant in this state more than eight hours during any day of twenty-four hours, nor more than forty-eight hours in any one week of six calendar days. Mr. Harold Ickes, attorney for the League, interested Senator W. Clyde Jones in the bill, who introduced it into the legislature on March 30, 1909. It was referred to the Committee on Labor, Mines, and Mining, of which Senator James A. Henson was chairman, and was thereafter known as Senate Bill No. 343. The women were given a hearing during the following week and the bill was reported out favorably.

The Illinois Manufacturers' Association had apparently taken little notice of the bill up to this time, although the greatest publicity had been given to it, and did not become aroused until it appeared on the Senate calendar for second reading. At this stage, they sent out the alarm and in response great numbers of manufacturers came to Springfield on April 14, asking for a hearing. Those representing the women workers at the hearing were the Misses Jane Addams, Anna Nicholes, Emma Steghagen, Elizabeth Christman, Agnes Nestor, Elizabeth Maloney, Anna Willard, and Mary McEnerney. The manufacturers wanted to compromise, but the women stood firm for an eight-hour day. It was, however, agreed that a public hearing should be granted both sides on April 21.<sup>1</sup> In the meantime, the manufacturers circulated petitions simultaneously in all the various factories endeavoring to get signatures of women opposing the bill.

At the hearing on April 21, the manufacturers claimed they had 552 present. Nine trade-union women, and, in addition, Mrs. Raymond Robins and Miss Mary McDowell, of the Women's Trade Union League, were present to support the bill. Each side was allowed three speakers, and of these an attorney was selected to discuss the constitutionality of limitation of hours by law. After the hearing, Senator Glackin, realizing that the bill in its original

<sup>1</sup> The manufacturers claimed that they had been unfairly treated since they had been informed that the bill would remain in committee for several weeks and that they need not worry about it. It was learned, however, that the committee had made no statement of the kind, but that the secretary of the Illinois Manufacturers' Association had given the members of that association erroneous information.



form could not pass, tried to get the manufacturers to agree to a fifty-four-hour week in the hope that the women would also compromise. The manufacturers, however, would not compromise since they did not wish to concede that the legislature had a right to interfere in regard to the hours of labor. The previous offer to compromise had been only a subterfuge to gain time.

On April 27, several hundred manufacturers went to Springfield in response to a call by the Illinois Manufacturers' Association and demanded a rehearing on the bill. They contended that they had had insufficient time at the previous hearing. The hearing was granted and held in the Senate chamber by the Senate acting as a committee of the whole. The first speaker was Mr. S. H. Shoninger, president of the Chicago Garment Manufacturers' Association, who charged that the bill did not come from the working girls; but when the senators questioned him, he admitted that it came from the organized working girls. When the employers were asked who prepared the petitions they had presented, they had to admit that they, themselves, had done it.<sup>1</sup> Miss Agnes Nestor and Miss Elizabeth Maloney were chosen as spokeswomen for the girls and both made telling pleas for the bill.<sup>2</sup> The press stated that no piece of legislation during this session had created so much interest and met

<sup>1</sup> In one mill employing 1,600 women, of whom only 167 had signed the petition, signs had been posted telling the girls that if an eight-hour-day law were passed, they would lose their Saturday half-holiday and would receive less wages. In another shop the girls were told that the business would have to move out of the state. Another argument was that the girls would be displaced by men.

<sup>2</sup> The women had a lobby of only three that week since they had not anticipated a rehearing. Many of the legislators and manufacturers came up to the girls after the adjournment of the meeting, shook them by the hand and said, "Girls, we are against your bill, but we must say we like your speeches," and the girls that were brought from the mills of other towns to lend their presence against the shorter working day showed by their faces that this experience had been a liberal education to them. After the session each one of the girls in the lobby for the bill was the center of a group of manufacturers and superintendents, discussing earnestly the justice of the shorter work-day, and it was plain to be seen that the men, accustomed as they were to treat the problem as one of dollars and cents, could not easily meet arguments stated in more human terms.—From Mary E. McDowell, "The Girls' Bill—A Human Proposition," in the *Survey*, July 3, 1909.



with such fierce opposition as this bill, except the fight for the senatorship which had been going on for months.<sup>1</sup> Had a vote been taken immediately, the bill would probably have passed; but a few days later it was seen that an eight-hour bill could not pass during that session. Several senators tried to get the two parties to agree upon an amendment, but were unsuccessful.

The next week, on May 4, Senator Jones introduced as an amendment a duplicate of the Oregon law which had been sustained ✓ by the United States Supreme Court in the above-mentioned decision which recognized the right of the state to regulate the hours of employment of women as a part of its police power. It was desired to see whether the Illinois Supreme Court would be guided by this decision; and in order to present the question squarely, Senator Jones thought it best to secure the enactment of a copy of the Oregon law. Several senators asked that action on this amendment be deferred until the next day in order that they might see if the Oregon constitution contained a prohibition against special legislation similar to that contained in the Illinois constitution. This was agreed to by Senator Jones. On the next day, however, the amendment was tabled. Senator Jones then introduced a new bill (S.B. No. 497) containing the Oregon provisions.

The Women's Trade Union League, which had not hitherto indorsed any bill other than the eight-hour bill, determined to support this ten-hour bill and give opportunity to have its constitutionality tested before the next meeting of the legislature in 1911.

On May 12, this bill was referred to the Committee on Labor, Mines, and Mining, but owing to the legal question involved they asked that it be sent to the Judiciary Committee of which Senator Niels Juul was chairman. That same day the bill was brought up in this committee and immediately a motion was made and adopted to amend it to eight hours. The members on this committee advocating eight hours claimed they wanted to give the women something and said they did not believe the ten-hour bill would represent any gain. On the other hand, those who talked against the

<sup>1</sup> *Ibid.*

eight-hour amendment declared they did so because an eight-hour bill could not pass but that a ten-hour bill would be a gain. Senators Jones and Henson charged that the manufacturers who at the beginning fought the eight-hour bill had now changed their ground in the fear that a ten-hour bill would pass both houses, and sought to get it changed back to eight in the hope of defeating any limitation, if not in the legislature, then later in the courts. The bill was reported out as an eight-hour bill.<sup>1</sup> There were then two eight-hour bills in the Senate. On motion of Senator Jones, the Senate struck out the eight-hour amendment to S.B. No. 497. This bill, providing for a ten-hour day, then passed the Senate and the House by large majorities.<sup>2</sup> It was approved by Governor Deneen on June 15.<sup>3</sup>

#### PROVISIONS OF THE TEN-HOUR LAW OF 1909

As finally enacted, section 1 of the law provided "that no female shall be employed in any mechanical establishment or factory, or laundry in this state, more than ten hours during any one day. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than ten hours during the twenty-four hours of any day." Section 2 provided the penalty for violation of the act, and section 3 placed the enforcement of the act in the hands of the State Department of Factory Inspection.<sup>4</sup>

#### SIGNIFICANCE OF THE NEW LAW

The passage of the bill was looked upon as a great victory since it constituted a necessary step toward the eight-hour day, and, in addition, was of great educational value. The law, if held con-

<sup>1</sup> As soon as the Judiciary Committee adopted the eight-hour amendment, the lobby of manufacturers left for home since they knew that an eight-hour bill could not pass.

<sup>2</sup> An attempt was made to amend the bill in the House, but the amendment was tabled. If it had been adopted, the bill would have been lost because there was insufficient time left to pass an amended bill.

<sup>3</sup> A complete account of the fight in the General Assembly may be found in Women's Trade Union League of Chicago, *The Eight Hour Fight in Illinois*, Leaflet No. 4 (1909).

<sup>4</sup> *Laws of 1909*, p. 212.

stitutional and vigorously enforced, would be of most value to women in the seasonal trades and in the laundries, since a work-day of ten hours or less was prevalent in most other industries. Realizing its effects, the laundry owners formed the largest part of the lobby against the bill. Professor Ernst Freund stated that the chief significance of the bill must be found in the willingness of the legislature to reopen the question of the power to regulate the hours of labor.<sup>1</sup> The act would give the Illinois Supreme Court opportunity to re-examine its earlier constitutional doctrine on this subject. If an eight-hour bill had been passed, the Supreme Court could have held that eight hours was unreasonable and annulled the law on this ground without making any finding upon the principles of limitation. The provisions of the law being the same as those of the Oregon law, the court would be required to reverse its decision in the earlier Ritchie case or conflict squarely with the Supreme Court of the United States.

#### THE STRUGGLE IN THE COURTS

On July 1, 1909, when the law went into effect, Chief State Factory Inspector Davies began a vigorous enforcement of its provisions, and a number of violations were discovered and prosecutions commenced. At the instance of the Illinois Manufacturers' Association, W. C. Ritchie and Company, of Chicago, the firm that had contested the former law, filed a bill of complaint praying for an injunction to restrain the chief state factory inspector and the state's attorney of Cook County from prosecuting the complainant, Ritchie, for violations of this law. The injunction was requested on the ground that the law interfered with woman's freedom and prevented her from earning a livelihood,<sup>2</sup> besides tampering fatally

<sup>1</sup> Illinois Bureau of Labor Statistics, *Labor Legislation in the 46th General Assembly of Illinois* (1909), p. 1.

<sup>2</sup> A high light was thrown on the company's position through the claim it put forward in its petition to the court that one of its trained workers, a woman who had been in its employ for thirty-five years, could not earn a living wage unless she were able to work more than ten hours a day. It is said that the Illinois Manufacturers' Association lost caste by supporting the Ritchie Company in its extreme position (*Survey*, December 11, 1909, p. 346).



with the conduct of business. The case was argued before Judge Richard S. Tuthill, of the Circuit Court of Cook County, and on September 13, Judge Tuthill decided the law unconstitutional and granted the injunction. He declared the law unconstitutional because it "virtually relegates women back to dependence." He stated that "the constitutional policy of this state is to advance the cause of women and place them on an equal basis with men. It is her right to make contracts and to acquire property if she chooses to do so. This law seeks to prohibit her from working more than ten hours a day and I think that in that respect it deprives her of her right to exercise the right of contract which is given her by the constitution."<sup>1</sup> An immediate appeal was taken to the Illinois Supreme Court.

#### JUDGE TUTHILL'S ACTION AROUSES WIDESPREAD INDIGNATION

Judge Tuthill's action caused great indignation throughout the state, and he was unsparingly denounced by the press, the pulpit, and many public-spirited organizations. In response to the urgent appeals of the Chicago Federation of Labor, the Women's Trade Union League, and the Illinois State Federation of Labor to the churches and other social organizations, propaganda in favor of the law was prosecuted with great vigor throughout the state. In this connection it is interesting to note how immediate and unanimous was the response of the churches to this appeal, the first ever addressed to them by the Chicago Federation of Labor. The day after it was issued, the State Convention of the Baptist churches by a unanimous vote expressed its "heartiest interest in this call of our brothers of the Chicago Federation of Labor for our assistance, and pledge them our co-operation in their noble fight for shorter hours of toil for the women and girls of Illinois."<sup>2</sup> Other religious bodies passing similar resolutions were the Illinois Synod of the Presbyterian church, and the Congregational Ministers' Union of

<sup>1</sup> Quoted in Chicago Federation of Labor, *Protection of the Health and Motherhood of the Working Women of Illinois*, a bulletin issued as part of the campaign to uphold the ten-hour law.

<sup>2</sup> Quoted in the *Survey*, November 6, 1909, pp. 205-6.



Chicago. Non-religious organizations, such as the Illinois State Conference of Charities and Corrections, the Second Congressional District Convention of the Illinois Federation of Women's Clubs, and doubtless many other organizations also passed resolutions favoring the law and deploring Judge Tuthill's action. The opinion of the press may be shown by quotations from a few editorials.<sup>1</sup> The *Chicago Evening Post* of September 15, 1909, commented as follows:

In issuing the injunction against the new ten-hour law for women, he (Judge Tuthill) permitted himself to indulge in old-fashioned legal metaphysics that showed how unfamiliar he is with the evolution of social legislation and the new attitude of the courts thereto. . . . When the United States Supreme Court said in the Oregon case that woman's freedom of contract is not so important to herself and to society as the protection of her health and potential motherhood through laws forbidding excessive hours of labor, it established the real precedent for the guidance even of a *nisi prius* court like Judge Tuthill. . . . Illinois is the only state where the fetich of "freedom of contract" has been successfully invoked by employers to defeat such legislation. . . . The early Ritchie case is not at all "on all fours" with the present Ritchie case. The new ten-hour law was carefully modeled on the Oregon law, which the United States Supreme Court has held constitutional; there is a vast body of data demonstrating its reasonableness and the value of such legislation for employees, employers, and society. More important still, perhaps, there is a new Supreme Court in Illinois which has thus far not displayed any disposition to rival its predecessor of the early '90's in defeating social legislation at the instance of a single class in the community.

The *Chicago Examiner* of September 1, 1909, said:

As a representative organization, the Illinois Manufacturers' Association should be in better business than trying to drive working women and girls back to semi-slavery. . . . The law that protects these toilers, poorly paid at the best, should stand.

In *The Public*, issue of September 17, 1909, we find the following:

As the law met opposition from the Illinois Manufacturers' Association, it was with great difficulty that its enactment was secured; and in

<sup>1</sup> These press quotations are all taken from the above-mentioned pamphlet issued by the Chicago Federation of Labor.

order to secure it the working women were obliged to modify the limitation they desired, from eight hours to ten. Mrs. Raymond Robins, president of the Women's Trade Union League, drives the point home that the nullification of the law is in the interest of economic coercion, not in the interest of free contract, when she says: "Everybody who knows what is going on in the world (except judges and lawyers) knows that freedom of contract can exist only between parties on an economic equality."

Similar statements in the *Chicago Daily News* and the *Chicago Record-Herald* show widespread interest in the case and the depth of feeling existing in favor of the law and against its opponents.

The membership committee of the American Association for Labor Legislation issued a statement and an appeal to the social and educational organizations of the state by means of which it endeavored to bring to the attention of the people of Illinois "the grave crisis now pending in their social legislation," and reminded them that "knowledge and appreciation of social needs determine judicial decisions," and that "courts generally reflect the state of enlightenment of their community."<sup>1</sup>

Stung by this bitter criticism, Judge Tuthill issued a public statement in self-defense. He claimed that his issuance of the writ of injunction was "almost *pro forma*," in order that the case might speedily be brought before the Supreme Court, to determine whether it would modify or set aside its opinion rendered fourteen years before in the first Ritchie case. Judge Tuthill affirmed that his decision was "well considered," and expressed his resentment toward the criticism which it had aroused and which was intended "to create so great a clamor in the state as in some way to influence the Supreme Court even and thus to secure a reversal." Judge Tuthill affirmed that "there is nothing in my power to do to make the life of every working woman less laborious and hard and to make it happier that I shall not do."<sup>2</sup>

<sup>1</sup> *Survey*, November 6, 1909, pp. 205-6.

<sup>2</sup> After citing Judge Tuthill's attempted defense of his action, the *Chicago Evening Post* of October 23, 1909, said: "But Judge Tuthill does not yet understand the real point of criticism against him. Nobody deplores any proper action which would pass the law up to the State Supreme Court. But a very large element in the

In spite of this affirmation he put upon the women, whom the measure was designed to protect, the burden of the appeal, instead of leaving the act in force while the plaintiff made his appeal.

On the other hand there was ample justification for any legitimate and constructive effort to influence the Supreme Court to reverse its former decision. Since it was made, the personnel of the court had entirely changed; the industrial conditions of women's work had seriously increased the strain and stress of their employments, and the decision of the United States Supreme Court had established a sufficient cause to outweigh the legal precedent which was established upon grounds inadequate to meet later conditions.

#### THE CASE PREPARED

That the women thoroughly realized the tremendous importance, nay, the absolute necessity, of winning this case before the Supreme Court, is shown by the seriousness with which they prepared their case. The volunteer services of Mr. Louis D. Brandeis, of Boston, were secured through the good offices of the National Consumers' League, which was in a position to put into his hands an unexampled store of evidence and opinion. With the assistance of Miss Josephine Goldmark, who gathered this material for the National Consumers' League,<sup>1</sup> Mr. Brandeis prepared a remarkable

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community seems to resent as an altogether gratuitous insult to their intelligence the judge's naïve assertion that he was opposed to ten-hour-day legislation for the sake of the women. 'We are trying to raise womanhood in Illinois to a point where she will be free from legal restrictions,' he said in substance, and then he proceeded to toss on the junk pile the only legislation for the protection of womanhood and motherhood which has managed to get through the Illinois legislature in fourteen years."

<sup>1</sup> In making preparation for the Oregon case, which was also argued by Mr. Brandeis, the National Consumers' League realized the necessity of compiling such data as a basis for sound public policy and future court decisions. Miss Josephine Goldmark was commissioned by the League to gather this store of information, and the Russell Sage Foundation supplied funds to enable her to make an exhaustive investigation, drawing upon European as well as American sources (*Survey*, December 11, 1909). Additional information was collected by Miss Goldmark for incorporation in the brief in the Illinois case (National Consumers' League, *Eleventh Report* [1910], p. 30).



brief for presentation to the Illinois Supreme Court.<sup>1</sup> This brief, a document of over six hundred pages, reviewed American and foreign legislation restricting the hours of labor for women, and then presented a great mass of evidence relative to the world's experience upon which such legislation had been based. The causes of the dangers of long hours of women's work were shown to lie in the physical differences between men and women, the greater morbidity of women, and the new strain in manufacturing occupations. It then presented evidence as to the nature and effects of fatigue, the bad effects of long hours on health, safety, morals, and the general welfare, and the benefits of short hours upon health, morals, output, and the organization of industry. The reasonableness of the ten-hour day and of the classification in the Illinois act were then discussed; and in conclusion attention was called to the fact that this case did not call for a reversal of the principles upon which the case of *Ritchie v. People* had been decided in 1895 because, first, the limitation set upon women's work by the act of 1909 was different in extent and effect from the one passed upon in *Ritchie v. People*; second, the court was called upon to apply the principles recognized in the former case in the light of new information and a better understanding of relevant conditions. A quotation from an able discussion by Professor Ernst Freund of the constitutional aspect of the Women's Ten-Hour Law, published by the Illinois Bureau of Labor Statistics, was included to show the difference between the two cases. The following is part of Professor Freund's statement:

The actual decision in the *Ritchie* case was that a case for a legislative limitation of the hours of labor of women to *eight* in the day had not been made out. That this conclusion should have been reached is not surprising. . . . It is easy to understand that a compulsory eight-hour day in 1893 or 1895 should have appeared to the Court as an unreasonable or even

<sup>1</sup> A striking feature of the brief was the clear-cut way in which the findings of medical research upon the subject of hours of work were placed before the judges. Professor John R. Commons considered this brief "certainly the greatest thing that has ever been done on the scientific basis of labor legislation in this or other countries" (quoted in the *Survey*, December 11, 1909, p. 346).



arbitrary interference with private rights. To say the least, the measure was far ahead of the times. The course of social study and investigation since 1895 has been such as to supply the defect which caused the adverse decision in the *Ritchie* case, namely, the insufficiency of the reasons for the restraint upon the freedom of contract. . . . The gain in knowledge during the last fifteen years has been such as to induce a legitimate expectation that the reasonableness of the present regulation can be made manifest to the Court. The demands of the public welfare change and rise with a growing knowledge of dangers and of the means of counteracting them. . . . The significant and controlling factor in the present situation, as applied to the ten-hour law and as compared with the situation in 1895, is the fact that the hygienic aspect of long-continued hours of female industrial labor, especially of such kind as is characteristic of the occupations named in the act, has been made the subject of thorough study within the last fifteen years.

The brief then closed with the statement that surely the right to "liberty" and "property" could not override the paramount right to "life" itself,<sup>1</sup> and that the facts set forth in the brief showed that the preservation of "life" itself was imperiled by the excessive hours of work. These facts showed that the Illinois legislature had ample ground for believing that work by the women of Illinois in its mechanical establishments, factories, or laundries for more than ten hours in one day was dangerous to the public health, safety, morals, and welfare, and that the enactment of the law in question was constitutional as a reasonable exercise of the police power.

Associated with Mr. Brandeis and State's Attorney John E. W. Wayman were William J. Calhoun,<sup>2</sup> of Chicago, who had recently been appointed minister to China, Assistant Attorney-General George E. Fitch, and Samuel A. Harper, of Chicago, who was counsel for the chief state factory inspector.

<sup>1</sup> According to decisions of the Illinois Supreme Court, the right to purchase and sell labor is a part of both the "liberty" and the "property" secured to the citizen by the constitution, and the constitutionality of the law was contested on the ground that it violated these constitutional "rights."

<sup>2</sup> The services of Mr. Calhoun were secured by the Illinois branch of the American Association for Labor Legislation, through its president, Professor Freund.

## THE HEARING BEFORE THE SUPREME COURT

On February 10, 1910, the Illinois Supreme Court heard the arguments for and against the constitutionality of the law.<sup>1</sup> Present at the hearing were delegations including members of the Women's Trade Union Leagues of Chicago and St. Louis, the Illinois branch of the Consumers' League, the American Association for Labor Legislation, and the Illinois branch of the latter organization.

The case was stated by Assistant Attorney-General Fitch, who traced its history and brought out the essential points involved. Mr. Calhoun followed Mr. Fitch and made a plea based upon the humanitarian aspects of the movement for shorter hours for working women. He pointed out that there is more of fiction than of reality in the doctrine of freedom of contract when workers are face to face with poverty all the time, and when the loss of a day's work and a day's wages means not enough money to pay rent or to buy food. Taking pains to disavow any leanings toward socialism or anarchism, and saying that he had not even been classed among the "uplifters," Mr. Calhoun pleaded sympathetically for the human values at stake. He spoke of the family responsibilities, of household cares, of future motherhood, and showed how vitally such important fundamentals of life are affected by the conditions of industry.

Mr. Brandeis then brought to bear the mass and weight of testimony which recent years had contributed to our knowledge of health as affected by occupation and overwork. The progress of legislation in reducing the hours of women's work was outlined, and emphasis was placed upon the Oregon law and the similarity of the Illinois statute. The reasonableness of the Illinois legislation was brought out by showing its place in the international sweep of labor legislation.

The only argument against the constitutionality of the law was made by Mr. William D. Haynie, of Chicago, counsel for the

<sup>1</sup> Through some misunderstanding the elaborate brief prepared by Mr. Brandeis was not filed at the proper time, but just before hearing the case the Supreme Court accepted it.

Illinois Manufacturers' Association. His argument was principally from the standpoint of precedent. He laid great stress on the decision in the earlier Ritchie case and said that this decision had been quoted in a score or more of cases since. To declare the present law constitutional would be, he said, a complete reversal by the court of its own previous decision.

The hearing was closed by State's Attorney Wayman, who brought out many points in the brief which he had prepared in collaboration with Mr. Harper. The argument was mainly directed to show that the law was in no sense class legislation, and that limitations of the sort it imposed were in reality not restrictions on the freedom of contract, but were actually necessary to preserve liberty. He pointed out that the state frequently enacts protective legislation for many classes of people, and even for quail and other game, and that there should be no objection to legislation providing better protection for women.<sup>1</sup>

#### THE COURT'S OPINION IN THE SECOND RITCHIE CASE

The Supreme Court filed its opinion<sup>2</sup> on April 21, 1910, and upheld the law in all of its particulars and as an entirety. This opinion covers the points involved in the case in the following manner:

First of all, the Ritchie Company had contended that the women's ten-hour law was in conflict with section 2 of article 2 of the constitution of 1870, which provides that "no person shall be deprived of life, liberty or property, without due process of law," in this: that it deprived W. C. Ritchie and Company of the right to contract freely with its female employees and the right of its female employees to contract freely with W. C. Ritchie and Company for their labor—a property right—by prohibiting adult female employees from agreeing to work, and from working, more than ten hours in any one day in the business of manufacturing

<sup>1</sup> *Survey*, February 19, 1910, pp. 758-59.

<sup>2</sup> *Ritchie & Co. v. Wayman*, 244 Ill. 509. Mr. Justice Vickers dissented from the decision of the Court.



paper boxes, paper-box machinery, etc., as that business was carried on by W. C. Ritchie and Company in the city of Chicago.

The court stated that if the statute could be sustained, it had to be sustained as an exercise of the police power, and expressed its opinion in regard to this question in the following words:

It is known to all men (and what we know as men we cannot profess to be ignorant of as judges) that woman's physical structure and the performance of maternal functions place her at a great disadvantage in the battle of life; that while a man can work for more than ten hours a day without injury to himself, a woman, especially when the burdens of motherhood are upon her, cannot; that while a man can work standing upon his feet for more than ten hours a day, day after day, without injury to himself, a woman cannot, and that to require a woman to stand upon her feet for more than ten hours in any one day and perform severe manual labor while thus standing, day after day, has the effect to impair her health, and that as weakly and sickly women cannot be the mothers of vigorous children, it is of the greatest importance to the public that the State take such measures as may be necessary to protect its women from the consequences induced by long, continuous manual labor in those occupations which tend to break them down physically. It would therefore seem obvious that legislation which limits the number of hours which women shall be permitted to work to ten hours in a single day in such employments as are carried on in mechanical establishments, factories and laundries would tend to preserve the health of women and insure the production of vigorous offspring by them and would directly conduce to the health, morals and general welfare of the public, and that such legislation would fall clearly within the police power of the State.

Ritchie had further contended that the act in question was special legislation, in this: first, that it singled out the business of those persons who were conducting mechanical establishments or factories or laundries and prohibited the employment of females in those establishments for a longer time than ten hours in any one day, while other establishments engaged in substantially the same business were permitted to employ females any number of hours in one day; second, that it had the effect of dividing men and women into classes; third, that after women had been set aside as a class, of dividing them into two classes—that is, that women who worked in mechanical establishments or factories or laundries were per-



mitted to work only ten hours in any one day and that women who were not employed in mechanical establishments, factories, or laundries were permitted to work any number of hours in any one day. The act was thus special and class legislation, hence, unconstitutional and void. ✓

The court disposed of these objections by saying that the pressure and spur under which women must work in mechanical establishments, factories, or laundries where the pace is set by machinery creates a substantial difference between such employments and those where the work is not so driving and the tendency to over-exertion is not so great; and the putting of such establishments in a class by themselves does not render the act invalid, as an arbitrary discrimination between women engaged in manual labor. The physical structure and maternal functions of women, and their consequent inability to perform, without effect upon their health and the vigor of their offspring, work which men may do without over-exertion, justify the discrimination between men and women made by the ten-hour law.

With regard to the difference between this case and the former Ritchie case, the court made the following explanation: first, there was nothing in the title of the Act of 1893, or in the act itself, which indicated or suggested that the act was passed for the purpose of promoting the health of women, except, as might be inferred from the provisions of section 5, that it might be conducive to the health of women to prohibit them from working more than eight hours in any one day, while the Act of 1909 expressly provided in its title that the limitation upon the number of hours which women shall be required or permitted to work in mechanical establishments, factories, or laundries was passed with the view "to safeguard the health of such employees." Second, the Act of 1893 provided for an eight-hour day while the Act of 1909 provided for a ten-hour day in which women should be permitted to work in mechanical establishments or factories or laundries. The court said that it was not at all clear from the earlier decision that a statute fixing a ten-hour day in which women might work would have been declared unconstitutional.

In expressing its own opinion the Court said:

We think the general consensus of opinion, not only in this country but in the civilized countries of Europe, is, that a working day of not more than ten hours for women is justified for the following reasons: (1) the physical organization of women; (2) her maternal functions; (3) the rearing and education of children; (4) the maintenance of the home; and these conditions are so far matters of general knowledge that the courts will take judicial cognizance of their existence. We are of the opinion that a statute prohibiting women from working in a mechanical establishment or factory or laundry more than ten hours in any one day is not an arbitrary or unreasonable limitation upon the right of women to contract [p. 530]. We are of the opinion that the act of 1909 is constitutional in all of its particulars and as an entirety [p. 531].

#### SIGNIFICANCE OF THE CASE

Thus ended a struggle the importance of which can hardly be overemphasized. With this favorable decision as an entering wedge, laws of wider application and more restrictive provisions might later be enacted by the legislature and sustained by the courts. The decision offered much encouragement to the comparatively small groups of men and women endeavoring to secure the enactment of social legislation. The methods pursued in preparing the case for presentation to the Supreme Court and the acceptance by the court of the results of modern scientific investigation are of greatest significance. The courts are taking a great step in advance when they become willing to take cognizance of present day facts in dealing with situations that have heretofore been dealt with on the basis of precedent and the a priori reasoning of a bygone age.<sup>1</sup>

<sup>1</sup>The following quotations show the importance the National Consumers' League attached to the decisions in the two Ritchie cases: "The old decision [*Ritchie v. People*] has been for fifteen years a baneful influence in every industrial state in the Republic, always raising the question whether, after all, it was wise to spend energy in trying to get legislation of this character when the courts were likely to hold it contrary to the state if not to the federal constitution." "By far the most important event of the year is the decision of the Supreme Court of Illinois [*Ritchie v. Wayman*]. . . . If the National Consumers' League had done no other useful thing besides its contribution toward this decision, our eleven years' existence would be justified by this alone" (National Consumers' League, *Eleventh Report* [1910], p. 18).

## THE SCOPE OF THE LAW EXTENDED

Hardly had this decision been filed, when the Women's Trade Union League began preparations to secure an amendment extending the scope of the law to include, in addition, mercantile establishments, hotels, restaurants, telephone and telegraph companies, express and transportation companies, and work as park attendant, and while retaining the ten-hour day, to limit the hours per week to fifty-four.

In proposing this amendment, the League asked the co-operation of the Illinois State Federation of Labor, the National Council of Women, the American Association for Labor Legislation, the National Consumers' League, the Federation of Young Women's Clubs, the Socialist Women's Organization, the Illinois State Suffrage Association, the Illinois State Federation of Women's Clubs, the Young Women's Christian Association, the women's colleges of Illinois, and the Federation of Settlements.

The campaign for the amendment was vigorously pushed throughout the state and many meetings were held. A poster was printed showing by roll call how each member of the last legislature had stood on the ten-hour bill of 1909. It was used effectively against the re-election of members who had opposed the bill. As a result of this opposition by the League, in co-operation with other civic bodies, a number of candidates were defeated on their record. Moreover, every legislative candidate was specifically asked whether he would favor the proposed amendment, and affirmative replies were received from most of the candidates who were elected to the General Assembly in November, 1910, so there was promise of success in the 1911 session. A legislative committee with seven members was formed, five from Chicago and two from Springfield, where a branch of the National Women's Trade Union League was strategically located, to help bring pressure to bear upon the legislature.<sup>1</sup>

With this support, an amendment was forced through the legislature extending the act to include the employment of females in mercantile establishments, hotels, restaurants, telegraph or tele-

<sup>1</sup> *Survey*, December 3, 1910, p. 331.



phone establishments or offices thereof, places of amusement, express or transportation or public utility business, common carriers, and public institutions, incorporated or unincorporated.<sup>1</sup> In order to facilitate enforcement of the act, a new section was added<sup>2</sup> requiring every employer to whom the act applied to keep a record, showing for each day his establishment was open, the hours during which each and every female in his employ, to whom the act applied, was employed. Such record was to be open to inspection by officials of the Department of Factory Inspection.<sup>3</sup>

After the bill had been passed by the General Assembly, the employers tried to secure a veto by the governor. Governor Deneen granted a hearing at which both sides were well represented.<sup>4</sup> After hearing the arguments, Governor Deneen approved the measure and it became a law.

#### THE AMENDED LAW DECLARED CONSTITUTIONAL

During 1912, the Illinois Supreme Court made two decisions involving the constitutionality of this amendment. In the first case the manager of a hotel in Charleston who had been convicted of violating the law by employing women for more than ten hours a day, appealed to the Supreme Court and contended that the law was unconstitutional as applying to hotels. The Supreme Court, however, in the case of *People v. Elerding*, 254 Ill. 579,<sup>5</sup> upheld the

<sup>1</sup> The employers argued that this was not a health measure but their arguments were conclusively refuted by Dr. Henry B. Favill.

<sup>2</sup> Section 5, suggested by Chief Factory Inspector Davies.

<sup>3</sup> *Laws of 1911*, p. 328. The proposal for a fifty-four-hour week was dropped since it would not have been wise to jeopardize the law by requiring the Supreme Court in the test cases which were expected to follow the passage of the new act to pass upon a further restriction of hours as well as upon an extension of the scope of the law to include occupations less laborious in nature than those affected by the original law.

<sup>4</sup> Women's Trade Union League of Illinois, *Extension of the Ten Hour Law*, 1911. Those favoring the bill at the hearing were Professor Ernst Freund, Miss Mary McDowell, Edwin R. Wright, James Morris, Lulu Holley, and Agnes Nestor. Careful inquiry has failed to disclose who represented the employers.

<sup>5</sup> Edgar B. Bancroft, an attorney of Chicago, generously gave his services to defend the constitutionality of the law in this case (Women's Trade Union League of Chicago, *Biennial Report* [1911-13], p. 19).



law as applying to hotels, since the nature of the hotel business was such as to afford a valid basis for classifying work in hotels as an occupation at which women should not work more than ten hours a day. The fact that the law applied to the employment of women in hotels but not to boarding-houses did not render the law invalid on the ground that it made an unwarranted discrimination between similar occupations, as was contended by Elerding, since there is a distinction between boarding-houses and hotels, the latter being *quasi* public places, where guests are constantly coming and going and where the demand upon employees attending to their wants is greater than in boarding-houses.

In the other case the court upheld the law as applying to any "public institution, incorporated or unincorporated, in this State."<sup>1</sup> The court held that "in securing the performance of specific duties imposed upon municipal corporations, the State has the same power of coercion and the same method of redress for non-performance as in case of individuals or purely private corporations."

#### THE PERIOD SINCE 1911

Since 1911, there have been no amendments to the ten-hour law, although the two opposing sides have respectively made serious efforts to secure a further reduction of hours and to break down the law as it stands. These movements have been very interesting, but we shall indicate only the general outlines of what has occurred.<sup>2</sup>

In 1913, after efforts to secure the enactment of a fifty-four-hour week law had failed, the employers succeeded in securing the passage of an amendment exempting canneries from the ten-hour law. This constituted a serious crisis, and the legislative committee of the Women's Trade Union League<sup>3</sup> lost no time in preparing a brief setting forth the seriousness of the proposed change in the law, and laying it before the governor.

<sup>1</sup> *People v. City of Chicago*, 256 Ill. 558 (1912).

<sup>2</sup> Persons wishing to follow the matter in detail, should consult *Life and Labor* for the years in question; Women's Trade Union League of Chicago, *Annual Report*; Illinois State Federation of Labor, *Proceedings of the Annual Convention*, and *Weekly News Letter*; *Survey*, July 14, 1917, p. 342, and June 7, 1919, p. 411.

<sup>3</sup> The committee was composed of Misses Elizabeth Maloney, Agnes Nestor, Mary Anderson, and Mary McEnerney.

Their chief contentions were that the bill provided no limitation to the length of the working day and thus destroyed the value of the law as a health measure, that it was an opening wedge for breaking down the law, and that the exemption of canneries might endanger the constitutionality of the ten-hour law on the ground that it was class legislation.<sup>1</sup>

Governor Dunne vetoed the bill on the grounds that exempting canneries would probably make the law so discriminatory in character as to render it unconstitutional, and that the absence of a fixed limit to the day's work would mean that women would probably be required to work fifteen, eighteen, or twenty hours a day, which would be against the trend of modern legislation.<sup>2</sup>

In 1915 and 1917, no further restrictions were obtained, although in the latter year, after the defeat of an eight-hour bill, Governor Lowden strongly urged the enactment of legislation substantially limiting the hours of labor for women. He had a bill drafted by Mr. Charles Woodward and secured its introduction into the Senate. This bill (S.B. No. 605) provided for an eight-hour day in certain employments, a ten-hour day in others, and permitted a day of twelve hours in canning establishments during part of the canning season. This bill was also defeated.<sup>3</sup>

#### THE ILLINOIS INDUSTRIAL SURVEY

The 1917 General Assembly did, however, enact a law<sup>4</sup> authorizing the governor to appoint a commission to be known as the Illinois Industrial Survey, whose duty it was to make a complete survey of all the industries of Illinois in which women were engaged as workers, giving special attention to the hours of labor for women in such industries and the effect of such hours of labor upon the health of women workers, and make a report to the governor not later than December 1, 1918, for transmission to the General As-

<sup>1</sup> See *Life and Labor*, August, 1913, pp. 245-47.

<sup>2</sup> *Senate Journal*, 1913, p. 2296.

<sup>3</sup> See Illinois State Federation of Labor, *Proceedings of the 1917 Convention*, pp. 38, 88-90; *Life and Labor* (1917), pp. 67, 111, 115; *Survey*, July 14, 1917, p. 342.

<sup>4</sup> *Laws of 1917*, p. 519.

sembly, together with such recommendations as it deemed advisable. This commission was to be composed of seven members, two of whom were to be employers of labor in an industry in which women were employed, two were to be representatives of women workers in industry, one a person interested in social problems, not known to be a representative of either labor or capital, and two were to be persons with a medical education and not distinctly representatives of either labor or capital. Ten thousand dollars was appropriated to pay the expenses of the investigation. The following persons were appointed by the governor to serve on this commission: Dr. James B. Herrick, chairman, Milton S. Florsheim, P. C. Withers, Elizabeth Maloney, Agnes Nestor, Dr. Solomon Strouse, and Dr. George W. Webster.

Owing to the great complexity of the subject, the commission recognized the impossibility of determining satisfactorily and in a scientific manner the actual incidence of special diseases, as of heart, lungs, kidneys, blood, nervous system, etc., as related to hours of employment, and therefore determined to proceed on the following general plan:

1. To determine the number of women in industry, the number in different industries, and the number of hours of work, including facts as to overtime, Sunday, and holiday work, etc. This would show present conditions, and by comparison with other years the trend of the times as to hours of employment. This investigation was made by means of questionnaires for employers and employees, the latter being filled out by field investigators while personally interviewing the employee.

2. To discover the trend of the times as to state legislation concerning the hours of women and the status of Illinois by making a summary of the laws of the various states as to hours of labor for women, with changes in recent years.

3. To investigate the health of employees in a general way by the questionnaire above referred to, in which the worker was to be asked as to her health and the influence of her occupation upon it.

4. To seek the opinions of physicians who cared for the health of women employees as to the effect of hours of labor upon health.



5. To draw upon the experience of other investigators as a source of information that might help the commission to reach correct conclusions.

6. To make intensive studies to determine to what extent fatigue might be manifested as a result of long hours. The rate of output, the incidence of accidents, and attendance records were to be investigated under long- and short-hour schedules in the attempt to show at what point fatigue enters as an element of danger or as a handicap to the efficiency of the individual worker.

To determine the number of working hours consistent with recovery from daily fatigue was the question that confronted the commission. "Fatigue," as used here, did not mean alone the sense of tire and exhaustion, or the consciousness of letting down of one's energies, but rather the physiological condition caused by the depletion of fuel and the accumulation of waste in the body.

The question, however, was to be considered also from the standpoint of "human rights." What hours of labor are consistent with the securing or the retaining of these rights? How shall the state in its own interest see that these women are preserved in health so that they may perpetuate a vigorous and virile race?

The commission found that:

1. Laws of the various states showed a definite tendency toward the shorter work day for women.

2. The practice among Illinois employers was to shorten hours: a large proportion of employers were then using shorter hours than the maximum permitted by law.

3. The tendency toward shorter hours was upheld and justified by the opinion and experience of physicians working in the industrial field. Of thirty-five physicians of wide experience in industrial work replying to the question, "What in your opinion is the best length for the working day for women in industry?" twenty-six stated eight hours, and three said fewer than eight hours. The value of these replies is indicated by the fact that the average length of industrial experience for these physicians was ten years, and that the average number of women cared for by each was more than a thousand. They were clearly not influenced in reaching their



opinions by the fact that they were employed by short-hour firms, as a number of these firms used a long work-day.<sup>1</sup>

4. Employees themselves testified as to the value of short hours. Their reports showed the good effect of a short working day on the length of service and well-being of the employee. A special study was made of 4,711 women working for Illinois firms. These employees were selected at random by field workers to obtain a representative census of opinion. This study showed that: (a) long-hour firms showed more complaints from employees; (b) overtime was more frequent in long-hour firms; (c) the turnover of labor was greater among long-hour workers; (d) workers who were required to stand had the worst hour conditions; (e) working mothers were most in need of protection as to hours and other conditions of employment; (f) Chicago workers had in general better conditions than those outside Chicago.<sup>2</sup>

5. The same employees produced more in an eight or an eight-and-a-half-hour day than when working longer hours in the same establishment. Three firms were found where a reduction in hours had been made without changing personnel or any other conditions affecting production. In one of these, a soap-packing plant, a group of twenty-four workers was studied for ten weeks under a ten-hour schedule, and for ten weeks under an eight-and-a-half-hour schedule—the standard week being reduced from fifty-five to forty-eight hours. Piece rates were increased one-third, at the same time that the hours were decreased. It was found that total output increased 3.97 per cent and hourly output increased 11.8 per cent. Another study was that made of buttonhole makers in a large garment factory. It covered a four-year period during which there were no changes in type of workers, labor turnover, character of work, or of sanitation. Wages were increased with each decrease in hours. Buttonhole making was all done by hand on a piece-work basis, and records of hours and output were complete and available for study. In this four-year period hours per week were decreased from fifty-four to forty-eight. Total output increased over 2 per

<sup>1</sup> Illinois Industrial Survey, *Report* (1918), p. 15.

<sup>2</sup> *Ibid.*, pp. 16-17; 50-70.

cent and hourly output increased 15 per cent.<sup>1</sup> Health conditions had considerably improved in this factory during the previous five years, and in the opinion of the factory health officer the reduction in hours had been a considerable factor in promoting health, in increasing contentment among the workers, and so in raising the rate of production. In a large corset factory a decrease in hours from fifty-four to forty-eight showed an increase in total output of 13.4 per cent, and an increase in hourly output of 31.5 per cent. This study covered a period of one and a half years, and the increase in production was not spasmodic but was maintained over the entire year following the reduction in hours.<sup>2</sup>

6. The shorter work-day showed an output steadier and better maintained throughout the length of the working day. This conclusion was drawn from observation of two groups of girls working in a dried-beef canning room of a large packing plant.<sup>3</sup>

7. In seasonal industries, long hours resulted in a marked drop in production early in the busy season, while short hours in the same field showed a production maintained or increased throughout the busy season. Two trades were studied—the hat industry of Chicago and the canning industry of the villages and rural districts in Illinois. In each of these two industries shops having different hour schedules were studied.<sup>4</sup>

8. The study of accidents showed that the two causes probably most operative were speed of production and inexperience of the workers. The factor of fatigue did not appear to enter in the course of a given work-day. This conclusion was based upon three accident studies, covering in all, 2,094 industrial accidents, and is at variance with the findings of many industrial investigators, who claim that fatigue during a working-day tends to increase the number of accidents occurring.<sup>5</sup>

<sup>1</sup> The report of the commission states that the hourly output increased 7 per cent, but this involves an arithmetical error.

<sup>2</sup> *Report*, pp. 17-18; 71-80.

<sup>3</sup> *Ibid.*, pp. 81-86.

<sup>4</sup> *Ibid.*, pp. 87-96.

<sup>5</sup> *Ibid.*, pp. 97-102.

9. Workers on a night shift showed a lower level of production than equally experienced workers on a day shift.<sup>1</sup>

10. The physiological value of the eight-hour day was demonstrated by the studies made. Evidence pointed to the eight-hour working-day as the standard which ought to be established, both from the standpoint of health of the worker and the volume of production.

#### RECOMMENDATIONS OF THE SURVEY

The following recommendations were subscribed to by a majority of the commission:<sup>2</sup>

1. The adoption of an eight-hour working day and a forty-eight-hour working week for women in industry.

2. This standard should be applied to all industries covered by the present women's ten-hour law, including all office-workers, but excepting graduate nurses.

3. The law as in force at present should be amended by the substitution of an eight-hour maximum for the present ten-hour maximum, a maximum for the week of forty-eight hours, and the addition of such provisions as would make the law easily enforceable.

4. Legislative provision should be made for the further study of night work by women, as well as the need for rest periods, regulation of time for luncheon, and other similar conditions of employment of women.

5. The passage of the bill submitted by the Survey. This bill provided for an eight-hour day and a forty-eight-hour week in mechanical and mercantile establishments, factories, laundries, hotels, restaurants, hospitals, telegraph and telephone establishments, offices, places of amusement, express, transportation and public utility business, common carriers, and public institutions, incorporated or unincorporated, in Illinois. These hours might be at any time in the twenty-four hours of the day. Graduate nurses and nurses in service in operating rooms were to be exempted from

<sup>1</sup> *Ibid.*, pp. 103-6.

<sup>2</sup> The five members signing the majority report were Dr. James B. Herrick, Elizabeth Maloney, Agnes Nestor, Dr. Solomon Strouse, and Dr. George W. Webster.

the provisions of the act. The State Department of Factory Inspection was to enforce the act and prosecute violations thereof. The employer was to be required to keep a timebook open to inspection by officials of the Department of Factory Inspection showing the hours during which each female covered by the act had been employed. Employers were also to be required to post notices in their shops of the time of commencing and stopping work and the time set aside for meals. The presence of any female in the shop at a time other than within the hours of work lawfully fixed in this notice, was to constitute *prima facie* evidence of her employment therein. Any employer discharging or otherwise discriminating against any employee because such employee had testified against him was to be subjected to the penalties provided in the act.

#### THE MINORITY REPORT

A minority report, drafted by Mr. Dudley Taylor of the Associated Employers of Illinois,<sup>1</sup> and signed by Milton S. Florsheim and P. C. Withers, the other members of the survey, gave the following reasons for their dissent:

1. While it was true that the "laws of the various states show a definite tendency toward the shorter work-day for women," there was no evidence that this tendency followed the conviction that the longer work-day affected the health of women. Even if the assumption were warranted that a shorter day contributed to the better health of women workers, there was no evidence to justify the recommendation of a maximum week of forty-eight hours and a maximum day of eight hours, for it was admitted that only two states provided for the former and seven for the latter.

2. "The practice among Illinois employers to shorten hours" and the fact that "a large proportion of employers are at present using shorter hours than the maximum permitted by law" did not justify the conclusion that hours of labor should be further restricted by law. On the contrary, they might be cited as evidence

<sup>1</sup> This organization has consistently opposed bills designed to limit the hours of employment of females, and those providing one day of rest in seven. The latter it characterizes as "silly."



that no such restriction was necessary; for, obviously, that which was granted by voluntary consent of citizens need not be required by statute.

3. That which was offered as evidence of industrial physicians was largely an expression of opinion based on no definite experience or facts. Consequently, this evidence was inadequate to warrant any conclusion.

4. The evidence of employees was incompetent. It was necessarily colored by the worker's personal reaction to her particular job.

5. The evidence concerning the relation of hours to labor turnover was inconclusive. Labor turnover is affected by methods of employment, earnings, physical shop conditions, and many other factors, more than by hours. The survey gave no consideration to these other factors.

6. Employers generally contend that a reduction of hours involves decrease of output. Data from three factories were hardly adequate to prove the contrary.

7. Certain conclusions drawn from observation of girls working in a dried-beef canning room were unwarranted. The difference in output of the group that worked ten hours in the canning room and the group that worked nine hours in the canning room and one hour in the cafeteria could not be credited to a difference in working hours. The only conclusion warranted was that intermediate recess periods were desirable.

8. The special study made of seasonal trades proved nothing. No allowance was made for differences in efficiency of management between the factories reported.

9. They believed that if "whenever hours have been shortened, so many other factors enter that it was impossible to make valid comparisons of accidents in working days of varying lengths," then there was no reason to suppose that the varying factors could be segregated or eliminated so that valid comparisons of fatigue could be made in working days of varying lengths.

10. Even if the survey had supported the contention that long hours make for ill-health of workers, there was no evidence to

warrant the conclusion that an eight-hour day should be the legal maximum working-day. The majority report entirely neglected the differences inherent in specific occupations and recommended a "blanket" bill, applicable to all workers and all occupations.

11. The bill recommended by the majority report was the identical bill that had been submitted to the Illinois legislature and repeatedly rejected by that body after thorough consideration and debate. Always one of the principal criticisms of the bill in the legislature was that it was not a health measure. Inasmuch as the actual health of the workers as affected by the conditions of their employment had not been the criterion or determining factor in the framing of this bill, they believed it should not be recommended as a health measure.

12. Since the Saturday afternoon holiday largely obtained, and the recommendation of the majority would result in a forty-four-hour week, they ventured to say that should such a measure be enacted into law, the women whose efforts would be so restricted and whose position in industry and means of livelihood would be so injuriously affected, would be the first to complain.<sup>1</sup>

Governor Lowden, in his biennial message, expressed the hope that the General Assembly would enact legislation further restricting the hours of labor for women,<sup>2</sup> and when the report of the Illinois Industrial Survey reached his hands, he sent a special message urging legislative action upon the subject. He stated that although there was a minority report, he thought that no one could read the report of the survey without reaching the conclusion that a much shorter work-day was needed than was at that time provided by law.<sup>3</sup>

The bill proposed by the survey failed to pass. In its stead, the conference committee drafted a bill which was similar to the one favored by the governor in 1917. This bill was said to represent an

<sup>1</sup> *Report*, pp. 117-20. In the opinion of the writer there is considerable to be said in behalf of some points made by the minority report, although several of the arguments used are pure sophistry. The Industrial Survey did not make out a clear case on grounds of health for a straight eight-hour day.

<sup>2</sup> *House Journal*, 1919, p. 20.

<sup>3</sup> *Ibid.*, p. 1378.

improvement over the existing ten-hour law, but in reality, instead of further restricting the hours of labor for women, it appeared merely to give legislative sanction to the hours then customary in the industries covered by its provisions. It also contained a clause permitting an extension of hours in case of certain emergencies, or in the case of seasonal occupations. This "emergency clause" was characterized by Miss Nestor as a "joker," because of the uncertainty of its interpretation. Because of its lack of ambiguity, she favored the existing ten-hour law rather than this bill. The bill failed "because of its own weakness."<sup>1</sup>

#### THE HICKS PROPOSAL

In the meantime an interesting movement, led by Representative (now Senator) Hicks, of Rockford, had come upon the stage. Beginning with 1915, this group endeavored to secure the enactment of a law authorizing an administrative commission to limit or extend the working hours of women and girls in any occupation it deemed proper upon application of any interested party. The courts would have power to determine the reasonableness and propriety of the decisions of the commission. A plan of this kind had been adopted by the state of Wisconsin in 1913. Since it seemed logical to vary hours of employment according to the laboriousness of the occupation, the plan received considerable support in the Illinois General Assembly. For several years, the struggle in the legislature has centered around the Hicks proposal.

This pressure for flexibility in the law has had its effect upon the demands of the Women's Trade Union League and the trade-union movement. Whereas this group formerly demanded the enactment of an inelastic eight-hour law, their bill in 1925 and 1927 provided some flexibility. The 1927 bill provided for an eight-hour day for women employed seven days a week, but where the six-day week prevailed, women might be employed ten hours a day provided the total for the week did not exceed forty-eight. In practical application, this would permit neighborhood retail stores, and those in small towns, to use the ten-hour day on Saturday and on one

<sup>1</sup> See Illinois State Federation of Labor, *Weekly News Letter*, June 28, 1919.



other day if time off was given on days when shopping was light. Laundry-owners might use the ten-hour day in order to make up time lost in weeks containing holidays. Other plants might use it in an emergency or for a "rush order." Certain exemptions were also made by this bill.<sup>1</sup> These modifications in the program of the Women's Trade Union League were made in order to attract the support of certain legislators who would not vote for a straight eight-hour bill but who had promised to support a modified bill. The League has had less success with this bill, however, than it had experienced with its earlier bill.

#### THE PRESENT STATUS OF THE STRUGGLE; CONCLUSIONS

Thus far, no change has been made in the law, although the movement for reduction of hours is very strong and a vigorous fight is made in every legislature. As the matter now stands, the question of legislative reduction of the hours of women's work is the center of a three-sided controversy. The manufacturers generally oppose further reduction of hours. The Hicks group demands administrative discretion in the fixing of hours worked in various industries. The Women's Trade Union League demands the enactment of a law substantially reducing the hours of women's work but permitting no administrative discretion in its application.

When the Hicks proposal was first made, the Women's Trade Union League made a thorough investigation of the experience of other states under such a plan. Although the plan is very attractive from a theoretical standpoint, in its practical application it is faulty. The League contends that in those states where it is in operation, the hours permitted are not fixed scientifically, as its proponents assert, but are fixed in accordance with the pressure which the two sides bring to bear on the board.<sup>2</sup> This, indeed,

<sup>1</sup> In order to reduce to a minimum the danger of an unfavorable decision of the Supreme Court, the bill was submitted to Professor Ernst Freund, Dr. Walter F. Dodd, and Dr. John A. Lapp. See Illinois Joint Committee for the Women's Eight-Hour Bill, *Women's Eight-Hour Day Bulletin*, April, 1927.

<sup>2</sup> The League contends that this usually means a lengthening rather than a shortening of hours. It cites the early experience of Wisconsin in support of this contention. An investigation of Wisconsin's experience was made in 1914 by



differs in no way from the fixing of hours by specific legislative enactment, but the latter method has the great advantage of being unchangeable except by legislative enactment.

It appears to the writer that while the Hicks proposal, *properly administered*, is the most logical method of dealing with the question of hours; from a practical standpoint, especially in a state with inefficient administration of law, the plan of the Women's Trade Union League will give best results. A law requiring a substantial reduction of hours (say, to eight per day and forty-eight per week) should be enacted in Illinois.<sup>1</sup> It should be pointed out, however, that a blanket eight-hour law cannot logically be justified on grounds of health unless one can prove that a day of more than eight hours is unhealthful in every occupation. It is common knowledge that some occupations are much more detrimental to health than are others. Work in a laundry for eight hours a day is much more detrimental to health than light work carried on for ten hours a day under pleasant surroundings. A great variety of factors, not merely hours of labor, enter into the problem of the healthfulness of an occupation. Except for the courts, one does not need to appeal to the question of health in order to justify the eight-

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Gertrude Barnum for the United States Commission on Industrial Relations. See United States Commission on Industrial Relations, *Hours of Labor for Women in Wisconsin*, report made on December 5, 1914.

<sup>1</sup> With respect to the limitation of hours of employment of women, Illinois is considerably behind the standard set by many states. Of laws in operation on January 1, 1926, those of nine states, the District of Columbia, and Porto Rico limited the work-day to eight hours in specified employments; those of sixteen states permitted a work-day of over eight but less than ten hours; while eighteen states permitted ten or more hours. Ten states placed a weekly limit of forty-eight hours in certain employments, and numerous other states placed a weekly limit of from fifty to sixty hours. In Illinois, however, a woman may lawfully be employed as many as seventy hours a week. With respect to occupations covered, California has the highest standard. By a combination of methods, this state has succeeded in limiting the hours of practically all of her women workers, except agricultural workers and domestic servants. A statute applies the eight-hour day and the forty-eight-hour week to a limited (but rather inclusive as to number of workers covered) list of employments, exempting, however, graduate nurses in hospitals and workers harvesting and canning fruits, fish, and vegetables. Orders of the Industrial Welfare

hour day. The positive value of leisure is the strongest argument for the short work-day. An argument of this kind will not, however, convince the courts of its constitutionality. Our constitutional system requires one to show a close positive relation between hours of labor on the one hand and health in its relation to the social welfare on the other. The United States Supreme Court has sustained a California statute providing for an eight-hour day for women in a limited list of industries,<sup>1</sup> and it seems likely that if the case were skilfully presented, the Illinois Supreme Court would uphold a similar statute.

While discussing the problem of hours, it should be pointed out that one day of rest in seven should be provided for by law, and that in every practicable case women and girls should be prohibited from doing night work. Both of these measures have a sound justification from the standpoint of health.

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Commission limit hours of labor to almost the same degree in numerous other occupations.

Using the U. S. Census of 1920 as basis of estimate, the Illinois law covers not more than 332,359 of the 527,875 females sixteen years and over in the state. This figure is too large by an unknown amount since there are some differences between the census classification of occupations and the occupations covered by the law. Using the same basis of estimate, the total number of girls and women whose hours of labor are restricted neither by the eight-hour provisions of the child-labor law nor by the women's ten-hour law is 197,503. Of those not covered, 95,340, or 48.3 per cent, are in domestic or personal service; 64,024, or 32.4 per cent, are in professional occupations; 17,947, or 9.1 per cent, are in manufacturing and mechanical industries (dressmakers and seamstresses not in factories account for about 17,000); 9,468, or 4.8 per cent, are engaged in agriculture, forestry, and animal husbandry; and 7,624, or 3.9 per cent, are in trade. These data are taken from the *Labor Bulletin*, June, 1928, pp. 192-93.

<sup>1</sup> *Miller v. Wilson*, 236 U.S. 373 (1915).

## CHAPTER X

### SAFETY AND HEALTH

Factory legislation in Illinois has been of comparatively recent development. This is explained by the late development of industry within the state. In 1870, Illinois possessed some mines and railroads and a well-established farming interest, but did not rank among the great manufacturing states such as New York, Pennsylvania, and Massachusetts, which were already experiencing, and attempting to correct, the evils that have always accompanied unregulated industry. Coal-mining, which early acquired considerable importance in Illinois, was the first industry to call down upon itself the regulatory powers of the state;<sup>1</sup> and the development of the mining code, beginning with the year 1872, has been so significant and so extensive that we are warranted in devoting a separate chapter to it. Between 1870 and 1890, however, manufacturing grew with great rapidity, and by the latter date Illinois reached the rank of third among the states in the Union with respect to the value of its annual manufactured product. Legislation to protect the men, women, and children working in these new and growing industries by no means kept pace with this industrial development. In the nineties, however, labor legislation began to gather momentum, and at the present time Illinois has laws dealing with nearly every phase of the subject. Separate chapters are devoted to the development of legislation regulating child labor and the hours of labor for women. This chapter deals for the most part with laws having to do with the safety and health of employees in general.

#### TUMBLING-ROD LAW

The relative preponderance of agriculture among the industries of the state previous to the recent development of manufacturing

<sup>1</sup> Aside from the Tumbling-Rod Law of 1869 which applied especially to farming. This law was an isolated enactment, and cannot be said to constitute part of a body of law designed to protect the agricultural workers of the state.

might lead one to expect the first law protecting workmen from personal injury to be concerned with some phase of that industry. This proved to be the case. In 1869, after many workmen had been injured by having their clothing caught in "tumbling rods,"<sup>1</sup> or lines of shafting running between threshing machines, corn shellers, and the like and the source of motive power, the Illinois General Assembly passed a law<sup>2</sup> requiring the owners of these machines to keep such tumbling rods or shafts securely boxed while running. Failure to comply with this requirement made such persons liable to the person injured for any damage sustained by reason of such neglect, and deprived the owner of the right of action to recover for services rendered by a machine not thus safeguarded.<sup>3</sup>

#### SAFETY OF COAL-MINERS

Three years after the passage of the Tumbling-Rod Law, the legislature made its first attempt to provide for the safety of coal-miners. As was stated above, these laws are discussed in another chapter: they are mentioned here only to show their place in the historical development of protective legislation. Throughout this period, labor legislation, with the exception of the mining code, was sporadic in nature.

#### FIRE ESCAPES

In 1885, the scope of protective legislation was extended to include protection of employees from fire. This law<sup>4</sup> required all buildings in the state four or more stories in height, except those used for private residences exclusively, but including flats and apartment buildings, to be provided with one or more metallic ladder or stair fire escapes. The number, location, material, and construction of such fire escapes was to be under the supervision

<sup>1</sup> Factory Inspectors of Illinois, *Second Annual Report* (1894), p. 28.

<sup>2</sup> *Laws of 1869*, p. 254.

<sup>3</sup> Although this statute made the party who used such tumbling rods without properly safeguarding them liable to a person injured thereby, the rule of contributory negligence prevailed as in other cases, and if the injured party was guilty of contributory negligence he could not recover (*W. St. L. & P. Ry. Co. v. Thompson*, 10 Ill. App. 271 [1881]).

<sup>4</sup> *Laws of 1885*, p. 201.



and control of local authorities. All buildings more than two stories in height used for manufacturing (and other enumerated) purposes were to be supplied with one metallic ladder or stair fire escape for every fifty persons for which working, sleeping, or living accommodations were provided above the second story. This law was supplanted by a new one in 1897,<sup>1</sup> which was similar in its requirements, but different in its manner of enforcement. The requirements of the old law dealing with four-story buildings were retained, but an additional requirement was set up for those of more than two stories. The latter were required to have at least one ladder fire escape for every fifty persons, and, where working, sleeping, or living accommodations were provided above the second story, one automatic metallic fire escape or other device for every twenty-five persons. The factory inspectors appointed under the Sweatshop Act of 1893, which is discussed later, were charged with the enforcement of this act. They were to have direct supervision and control over the erection and construction of all fire escapes required by the act. This law was passed at the instance of underwriters who had paid large sums on losses of life by fire, and who insisted upon the requirement by law of facilities whereby firemen might combat fires with greater safety in tall buildings and other extra-hazardous places which had hitherto served as traps for them. The law, which should have been of great value to employees and persons occupying such buildings, was enacted without the direct initiative of the factory inspectors.<sup>2</sup>

The act was violently opposed by the Illinois Manufacturers' Association, and the factory inspectors were virtually unable to enforce it.<sup>3</sup> The constitutionality of the law was attacked, but the Illinois Supreme Court upheld it in the case of *Arms v. Ayer*, 192 Ill. 601 (1901), declaring that it did not delegate judicial or legislative power to the inspector of factories, that its title was sufficiently

<sup>1</sup> *Laws of 1897*, p. 222.

<sup>2</sup> International Association of Factory Inspectors, *Proceedings of the Eleventh Annual Convention* (1897), p. 36, paper by Mrs. Florence Kelley on "Evolution of the Illinois Child-Labor Law."

<sup>3</sup> Factory Inspectors of Illinois, *Sixth Annual Report* (1898), p. 7.

explicit, and that it was not local or special in its application. In 1899, however, before this decision was rendered, the legislature repealed the act and enacted a new law<sup>1</sup> requiring all buildings more than two stories high used for manufacturing purposes to have at least one fire escape for every fifty persons for which working accommodations were provided above the second story. The provision of the former act requiring an automatic fire escape for every twenty-five persons was omitted; and enforcement was placed in the hands of the local authorities instead of the state factory inspectors. With respect to the latter provision, the opponents of the former law made capital of an accident which occurred at Sterling, Illinois, and for which they placed the blame upon the state factory inspectors. Chief Factory Inspector Louis Arrington disclaimed blame upon his department for this unfortunate occurrence;<sup>2</sup> but regardless of where the truth may lie with regard to this controversy, the fact remains that the enforcement of the act was taken out of the hands of the state factory inspectors and placed in the hands of the local authorities—a step which leads almost inevitably to non-uniform and ineffective enforcement.<sup>3</sup>

Not until 1919 was enforcement of the Fire Escape Law placed in the hands of a state department—the Department of Trade and

<sup>1</sup> *Laws of 1899*, p. 220.

<sup>2</sup> Factory Inspectors of Illinois, *Seventh Annual Report* (1899), p. 6. The General Assembly of 1899 appropriated \$2,500 to each of two men who received injuries when a fire escape, which was being erected “under the direction and approval of the State factory inspector,” gave way at Sterling, Illinois (*Laws of 1899*, p. 44).

<sup>3</sup> In connection with the matter of insuring that buildings used as workplaces shall be safe, we may mention two other laws, one enacted in 1889, the other in 1911. In 1889, the legislature passed an act (*Laws of 1889*, p. 88) designed “to insure the better protection of life and property from steam boiler explosions.” The law gave city councils and the boards of trustees in towns and villages power to provide for the examination and licensing of engineers in charge of stationary engines. The second act (*Laws of 1911*, p. 146) required owners or managers of factories and tenements (in addition to other types of buildings) in which gas was used, to equip them with an automatic gas cock, valve, or other appliance by means of which, in case of fire, accident, or other emergency, the supply of gas might be shut off without requiring entrance into the building for the purpose.

Commerce in this case. The 1919 law was not to apply to cities, villages, and towns which prescribed the kind, number, location, material, and construction of fire escapes to be erected on buildings within their jurisdiction.<sup>1</sup>

#### BLOWER LAW

As a result of efforts of the Metal Polishers' Union,<sup>2</sup> the legislature in 1897 passed what is known as the Blower Law.<sup>3</sup> It had been recognized for many years that work in connection with emery wheels and other grinding apparatus was dangerous, and insurance companies would not issue policies to men working at such occupations. England first prohibited such grinding by minors in 1863, owing to the prevalence of "grinders' phthisis" among young persons working at this occupation. The Illinois law required owners of factories or workshops using emery wheels or emery belts of any description to provide them with blowers and hoppers to carry off the dust produced in grinding. Specific provisions were included as to size of pipes, velocity of air current to be maintained in them, etc. The act did not apply to grinding machines employing water at the point of grinding contact, or to small shops employing not more than one man at such work. It was made the duty of any factory inspector, sheriff, constable, or prosecuting attorney, upon receiving written complaint, accompanied by the sum of one dollar as compensation for his services, that a given factory or workshop was not equipped with the appliances required by the act, to inspect such factory or workshop, and, if the allegation were found true, to make complaint before a justice of the peace or police magistrate. The prosecuting attorney was to prosecute such cases. Upon conviction, a fine of from \$25 to \$100 was to be imposed. Several years after the passage of this law the *Polishers' Journal*—the official organ of the National Metal Polishers' Union—printed an editorial setting forth the condition of the metal polishers in the United States and stated

<sup>1</sup> *Laws of 1919*, p. 570.

<sup>2</sup> International Association of Factory Inspectors, *Proceedings of the Eleventh Annual Convention* (1897), p. 36, statement of Mrs. Florence Kelley.

<sup>3</sup> *Laws of 1897*, p. 250.



that "metal polishers are better protected today in Illinois than in any other state in the Union."<sup>1</sup>

#### AGITATION FOR AN ADEQUATE FACTORY AND WORKSHOP LAW

The feeble attempts at regulation just described were not, however, worthy of so great an industrial state as Illinois. Knowledge of means of safeguarding the life, limb, and health of industrial workers was rapidly accumulating, but Illinois had not seen fit to put it to use. Everyone knew that accidents frequently occurred, but few persons knew much more about them than this. There was no requirement that accidents should be reported to state officers so that they might be tabulated and investigated. The making of changes to prevent their recurrence was purely a voluntary matter for the individual employer; hence there was no systematic advance toward greater safety in industry. The most effective measures leading to a reduction of accidents and occupational disease among employees, namely, the enactment and vigorous enforcement of provisions directly designed to secure greater safety, and the making of such accidents and disease as did occur obviously costly to the employer, had not yet been tried in Illinois. In 1907, it was said that "while Illinois ranks third as an industrial State, it ranks absolutely last on the record it has made in securing appropriate legal measures to protect properly its working classes in factories, mercantile establishments, mills, and workshops."<sup>2</sup>

Many persons, however, were seriously concerned about the matter. Public-spirited citizens were interested and had supported the trade unionists who had tried for years, but with little success, to secure the passage of various laws.<sup>3</sup> The factory inspectors had

<sup>1</sup> Quoted by Governor Deneen in his message to the General Assembly, 1909 (*House Journal*, 1909, p. 60).

According to the report of the State Factory Inspector in 1914, some insurance companies still refused policies to metal polishers, but most companies, because of improved conditions, would accept them as insurable risks (Illinois Chief State Factory Inspector, *Twenty-first Annual Report* [1914], p. 237).

<sup>2</sup> Chicago Industrial Exhibit, *Handbook* (1907), p. 102, statement of Mr. Edgar T. Davies.

<sup>3</sup> As early as the seventies, the trade unions of Illinois urged the enactment of such laws. See Illinois General Assembly, House, *Report of Special Committee on*



repeatedly called attention in their reports to the need for legislation of this nature, and in 1903 and 1905 they prepared bills in proper legislative form and presented them to the General Assembly;<sup>1</sup> but the proposed legislation was not secured in either year largely because of the fact that public sentiment had not yet been sufficiently aroused to the need for such legislation. Governor Deneen took considerable personal interest in the matter and was desirous of securing the passage of adequate laws. During the first year of his term of office, he requested Mr. Davies, the chief state factory inspector, to make a careful study of the laws of the various countries of Europe, as well as those in force in the United States, in order that a comprehensive bill might be drafted for Illinois embracing the best features thus far developed by the world's experience in dealing with the problem. In conformity with the governor's suggestions, Mr. Davies, working in co-operation with Professor Charles R. Henderson, of the University of Chicago, and other experts, conducted the necessary research and drafted a bill which was introduced into the legislature.<sup>2</sup>

The bill provided that machinery, elevators, stairways, and other dangerous places be fenced off or guarded; ventilation, heat, cleanliness, and thoroughly sanitary conditions were to be maintained or provided for; fire escapes were to be kept open and supplied with light that would not be turned off in case of accident; unsafe overcrowding of any floor space was prohibited; seats were

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*Labor* (1879), p. 11. A bill of this kind was introduced in 1879. The demand was continued without cessation from that time on. In 1889, an "Employment Inspection Act," comprising forty sections, was taken up point by point by the state federation and finally adopted in form for presentation to the legislature. See Staley, *History of the Illinois State Federation of Labor*. In 1886, the executive committee of the same body was instructed to draft a bill providing for state inspection of mills, factories, and workshops (*Knights of Labor*, June 5, 1886, p. 7).

<sup>1</sup> It had been the custom in the past for factory inspectors to suggest what legislation was needed. Since these reports did not reach the members of the General Assembly until after adjournment had taken place, Chief Inspector Davies began the practice of preparing bills for introduction into the General Assembly. Much better results were secured in this way (Factory Inspectors of Illinois, *Fifteenth Annual Report* [1907], p. 7).

<sup>2</sup> Mr. Davies in *Handbook* (1907), pp. 103, 105.

to be provided for women workers; belt-shifters and means of instantly shutting off of power were required; food was not to be eaten where white lead, arsenic, or other poisonous substances were manufactured; vats containing hot or corrosive liquids or molten metals were to be safeguarded; placards were to be posted at dangerous places, and separate toilets and dressing-rooms were to be provided for each sex. The Department of Factory Inspection was charged with the enforcement of the act. The factory inspectors were to investigate accidents and keep records of the same.<sup>1</sup>

The bill received widespread support. One of the prime objects of the Chicago Industrial Exhibit of 1907 was to urge its enactment. It had every sound argument in its favor, and in the absence of any specific objection there was no apparent reason to doubt its passage. There developed strong opposition, however, led by the Illinois Manufacturers' Association. The arguments against the bill were not specific. As reported, they were entirely negative and unconstructive.

It [the opposition] condemns as impractical certain features of the bill and declares that too much power is placed in the hands of the factory inspector; yet it suggests no "practical" substitute or amendments, nor does it explain how factory regulation can be enforced without giving power to the officer of the law. It wasted its time and withheld its co-operation when earnest citizens were working conscientiously upon the detailed provisions of the bill, and now it excitedly decries "hasty legislation." It appeals for "reasonableness" when its own methods are based not upon reason but merely upon hidden influence. These tactics, whatever their lingering effectiveness in legislative halls, are losing any power they may have had to hoodwink the average citizen. This was demonstrated overwhelmingly at a meeting held April 13 in the City Club of Chicago under the auspices of the club's industrial committee. The arguments of State Factory Inspector Davies and the trade unionists dealt with facts. Those of the Illinois Manufacturers' Association scarcely got beyond the broadest platitudes, and when they did attempt to be specific they were hopelessly inaccurate or beside the point. They abounded in assurances that none wished more ardently than the manufacturers to safeguard life and limb. And they failed absolutely to contribute a single positive suggestion for

<sup>1</sup> *Handbook* (1907), pp. 105-6.

incorporation in the measure. The effect of this discussion confirmed the judgment and enlisted the sympathy of public-spirited citizens in urging that the Illinois legislature rescue the state from the disgrace of its shamefully inadequate factory laws.<sup>1</sup>

The legislature did not pass the bill. Mr. Davies expressed the opinion that the keen agitation against its passage was in large measure attributable to the fact that its purposes were not well understood, since but few of the members that protested against its passage were familiar with its provisions. Inasmuch as the bill was considered favorably by many of the manufacturing interests, and was unanimously supported by the working men and women, he predicted that both employer and employee would soon be working together for the passage of a bill similar to the one that failed.<sup>2</sup>

THE INDUSTRIAL COMMISSION AND THE HEALTH, SAFETY,  
AND COMFORT LAW OF 1909

After the failure of the General Assembly to pass this bill, Mr. Davies secured the introduction and adoption of a resolution (S.J.R. No. 19) authorizing the governor to appoint an Industrial Commission composed of nine members, three representing the employers, three the employees, and three the public, which should thoroughly investigate and report to the governor, by bill or otherwise, the most advisable method or methods of providing for the health, safety, and comfort of the employees of factories, mercantile establishments, mills, and workshops in the state, for consideration and action by the 46th General Assembly. The Commission was appointed by Governor Deneen and the work of investigation begun.<sup>3</sup>

<sup>1</sup> *Charities and the Commons*, April 20, 1907, pp. 91-92.

<sup>2</sup> Factory Inspectors of Illinois, *Fifteenth Annual Report* (1907), p. 11.

<sup>3</sup> The Industrial Commission of 1908-9 consisted of the following members: Edwin R. Wright, chairman, president, Illinois State Federation of Labor; Samuel A. Harper, secretary, attorney at law, Chicago; Charles Piez, president, Link Belt Company, Chicago; Emerit E. Baker, president, Kewanee Boiler Co., Kewanee, Ill.; P. A. Peterson, president, Union Furniture Co., Rockford, Ill.; Dr. Henry B.



The Commission was materially assisted in its investigations and deliberations leading up to the drafting of its bill by Mr. Davies, whose experience and advice were of great value and whose draft of a bill furnished the basis for the measure submitted by the Commission, by Professor Charles R. Henderson, of the University of Chicago, who rendered valuable service by compiling the laws of Germany, France, Belgium, England, and other countries to show the state of the law in foreign lands, and by Professor John R. Commons, of the University of Wisconsin, who did this service with respect to the laws and regulations of various states of the Union.

The consideration given to foreign laws and to the statutes of the different states of the Union clearly demonstrated to the Commission that Illinois was far behind every industrial country of Europe and most of the states of this country in the matter of factory legislation.

The Commission submitted a bill,<sup>1</sup> drafted by Mr. Harper, which was the result of months of careful investigation and study of actual working conditions throughout the state. The conditions found were such as to "imperatively demand" the enactment of remedial legislation of the nature proposed by the Commission. The Commission made a great number of visits to various kinds of industrial establishments in Chicago and other cities of the state, and drafted the bill with a view of meeting actual, not theoretical,

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Favill, president, Tuberculosis Institute, Chicago; Graham Taylor, president Chicago Commons, Chicago; David Ross, secretary, State Bureau of Labor Statistics, Springfield, Ill.; Peter W. Collins, secretary, International Brotherhood of Electrical Workers, Springfield, Ill., and William Rossell, member Legislative Committee, Chicago Federation of Labor.

<sup>1</sup> "A bill for an act to provide for the health, safety and comfort of employes in factories, mercantile establishments, mills and workshops in this State." The brief report of the Commission and the "Plea for Legislation for Women Workers," mentioned later in this account, may be found in Illinois Bureau of Labor Statistics, *Labor Legislation in the Forty-sixth General Assembly* (1909), pp. 173-82. The text of the bill except for the changes noted later, may be found in Illinois *Laws of 1909*, p. 202, the bill of the Commission and the act as passed being practically identical.



conditions existing in the ordinary workaday life of the great army of employees. No effort was made to establish a perfect or ideal standard of legislation in any of the several subjects covered by the bill, but the bill was drawn in a spirit of mutual concession and after a "most thorough" consideration of the rights of both employer and employee. It was recognized that the conditions which had grown up under the "somewhat remarkable laissez faire course" pursued in the state for many years could not be remedied by a single measure.

The measure proposed by the Commission had two purposes in view: first, the guarding of hazardous and dangerous machinery and places of employment, and, second, the maintenance of proper and sufficient sanitary and ventilating systems.

The provisions relating to guards for machinery were, of course, directed to the prevention of accidents. It was found that the expenditure of a comparatively small amount of money in guarding machinery, elevator shafts, wheel holes, vats, etc., would prevent a large number of accidents. In the opinion of the Commission, the provisions of the bill were but little, if any, in advance of the ideas and practices of the progressive manufacturers of the state, and it was believed that very little encouragement would be needed to induce the better class of manufacturers to introduce and maintain the desired reforms. Existing unfortunate conditions were in large part attributable to thoughtlessness on the part of the manufacturers, rather than to any disposition on their part not to perform their full duty to their employees. The Commission believed that this thoughtlessness was due to the fact that the Illinois law set no standards and imposed no duty upon the manufacturers with respect to the health, safety, and comfort of employees.

In order to increase safety by placing part of the responsibility upon the employee, the Commission provided in its bill that every employee working with any machine should examine the same for defects on each working day, and upon discovery of any defect give notice of it to his employer. If failure to give notice resulted in any injury to him, he was to have no right of action (sec. 6). The employee was also to be prohibited from experimenting or

tampering with machines or appliances with which he was not familiar and which were not connected with his regular duties.<sup>1</sup>

While the necessity for proper protection against hazardous and dangerous machinery would be more apparent to the casual observer than the need for improved conditions of sanitation and ventilation, the careful investigation by the Commission demonstrated that sanitary regulations were of more pressing importance. The Commission dealt with three general questions relating to sanitary conditions, namely, ventilation, plumbing and drainage, and cleanliness and comfort.

Great care was exercised in drafting the section of the bill dealing with ventilation. Minimum requirements were set up dealing with the number of cubic feet of air space per workman, and provision was made for artificial ventilation where needed. The amount of fresh air to be supplied depended upon the kind of illumination used, the air space furnished per employee, and the window area of the workroom. No part of the fresh-air supply might be taken from any cellar or basement (sec. 11). No unnecessary humidity that would jeopardize the health of employees was to be permitted (sec. 10).

The Commission found it difficult to establish a uniform rule for plumbing and toilet facilities for all industries affected by the provisions of the proposed bill, but desired to emphasize the need for adequate provisions of this sort as being of fundamental hygienic importance, and further to emphasize the manifest propriety of maintaining privacy for each sex. The ratio of closets to employees was fixed<sup>2</sup> at a somewhat lower figure than had been found economically advisable by several managers of large establishments which had been visited, but the requirements suggested were expected to afford a large measure of relief from existing conditions.

The Commission also emphasized the necessity of adequate washing facilities. The variety of industries affected by the measure

<sup>1</sup> Section 7 of the Commission's bill. All numbers of sections (except sections 6 and 7 mentioned in this paragraph) referred to in connection with this bill are those found in the act as passed by the General Assembly.

<sup>2</sup> One closet to every thirty men, and one to every twenty-five women (sec. 20).

made it difficult to establish a general rule covering these points, but the Commission was unanimously of the opinion that the better the facilities as to personal cleanliness and general hygienic habits, the higher would be the general morale of the employees. The provisions for washing facilities and dressing-rooms depended upon the kind of establishment in question.<sup>1</sup>

Employees were prohibited from taking food into or eating their meals in any room where white lead, arsenic, or other poisonous substances or injurious or noxious fumes, dusts, or gases were present under harmful conditions (sec. 8).

Provision was made as to the time, method, and frequency of cleaning the workrooms (secs. 12 and 13).

The Commission found that the existing state law relating to fire escapes was inadequate. The law was not wide enough in scope and its enforcement was left to the boards of supervisors or county commissioners, with the result that it was very poorly enforced.<sup>2</sup> The Commission recommended that the law be amended to apply to all buildings more than two stories in height, and that its enforcement be placed in the hands of the state factory inspector. The bill which the Commission submitted, however, stated that "sufficient and reasonable means of escape in case of fire shall be provided, by more than one means of egress, and such means of escape shall at all times be kept free from any obstruction and shall be kept in good repair and ready for use, and shall be plainly marked as such."<sup>3</sup> Detailed provisions were made concerning the construction of stairways, hallways, and passageways, so as to provide greater safety for employees (secs. 15 to 17, 19). Overloading of floors with machinery or other material was prohibited (sec. 18).

<sup>1</sup> See following pages.

<sup>2</sup> See above, p. 226.

<sup>3</sup> Section 14. The provision that means of egress must be kept free from any obstruction was an important improvement over the former law. An investigation into conditions in the tenement districts of Chicago made by an Investigating Committee of the City Homes Association in 1901 showed the need for this sort of provision. See the report of this committee entitled *Tenement Conditions in Chicago* (1901), p. 201. The bill proposed by the Commission was to be enforced by the state factory inspectors; consequently it was more likely to be vigorously enforced than the old fire-escape law had been.



The provision regarding seats for female employees was drawn so as to afford the maximum of relief without materially affecting the existing methods of conducting the industries involved. It was required that establishments affected by the act should provide a reasonable number of suitable seats which might be used by female employees when not necessarily engaged in the active duties for which they were employed, or when the use of such seats would not interfere with the proper discharge of the duties of such employees.<sup>1</sup>

With respect to the welfare of female workers, the Commission submitted to the governor a plea presented to it by a committee of the Women's Trade Union League. This plea, which was drafted by Anna E. Nicholes, Mary Anderson, and Agnes Nestor, was the outcome of a conference of women workers called by the Women's Trade Union League, held December 10, 1908, at the City Club, Chicago, and composed of representatives from fifteen trades in which women were employed.

This plea pointed out that although Illinois was the third state in the Union in industrial production, it had been most indifferent in extending protection to its women workers. With the single exception that women might not work in mines, after a girl had reached the age of sixteen years there was no concern on the part of the state as to her welfare.

The plea made recommendations with regard to such topics as limitation of hours of work; protection from dangers incident to the use of machinery; sanitary conditions; the lighting of shops, factories, and hallways; sufficient, separate, and sanitary toilets; seats in stores, workshops, and factories; women factory inspectors; and urged the Commission to recommend to the legislature and governor that a special Commission on Home Industries be appointed to make an investigation to supplement the investigation then being made by the United States Bureau of Labor, and to devise some method of regulating the conditions of women and

<sup>1</sup> Section 9. In 1901, the Child-Labor Act of 1897 was amended (*Laws of 1901*, p. 231) by requiring "all establishments subject to factory inspection, where girls and women are employed," to provide suitable seats for their use and to permit them to use such seats "when not necessarily engaged in their active duties."



children working at industrial employments in tenements and homes.

It will be noted that some of the suggestions made in this plea were incorporated by the Commission in its proposed bill; but others, in the opinion of the Commission, were of sufficient importance to warrant independent consideration. The Commission felt that it had no authority to take up the question of hours of labor for women.<sup>1</sup>

The Commission's bill was to be enforced by the chief state factory inspector and his assistants, who were to prosecute all violations, and for that purpose were given power to inspect at all reasonable times all establishments covered by the act, and to give proper notice in regard to violations of the act to persons operating establishments not complying with its provisions.<sup>2</sup> When general changes relative to the location and spacing of machinery or to ventilation were made and such changes complied with the provisions of the act, such arrangements, conditions remaining the same, were not to be disturbed by any requirements of the chief state factory inspector or his deputies within a period of twelve months (sec. 25). It may be noted that no discretion was given to the administrative authorities such as was given in the New York law, for instance. This omission was probably due to doubts as to the legislative power to make such liberal delegation of authority to an administrative branch of the government.

In all cases of accident or injury resulting in death in establishments covered by the act, an immediate report was to be sent to the

<sup>1</sup> The Commission did not give much attention to the problem of occupational diseases since the Commission on Occupational Diseases was making a separate investigation of that subject. Chapter xi is devoted to a discussion of legislation upon the subject of occupational diseases.

<sup>2</sup> Persons found guilty of violating any of the provisions of the act were to be fined from \$10 to \$50 for the first offense, and from \$25 to \$200 for a subsequent offense (sec. 26).

Inspections made by local authorities upon authority of local ordinances were to be accepted by the state factory inspector, provided the standards required by these local ordinances equaled those of the act (sec. 27). The act was not to apply to establishments subject to federal supervision (sec. 28).

chief state factory inspector; and all accidents or injuries which entailed a loss to the person injured of fifteen consecutive days' time or more were to be reported to the same official each month (sec. 24).

The bill contained a notice, summing up its chief requirements, which was to be posted in a conspicuous place in every office and workroom of every establishment covered by its provisions (sec. 31).

Since the efficient enforcement of the provisions of the act would require additional deputy factory inspectors skilled in the various employments they would be called upon to inspect, the Commission suggested that provision be made for the appointment of a sufficient number of such inspectors. This suggestion, however, was not incorporated in the proposed bill.

One of the best features connected with the whole activity of the Commission was the good feeling existing between those representing the employer and the employee classes. It was found that the differences between these two groups were usually due to disparate points of view, and to misunderstandings arising therefrom. Many of these differences and misunderstandings were eliminated during the course of the investigation, and the bill proposed was unanimously and unqualifiedly agreed upon and was thought to be entirely reasonable and satisfactory to both employers and employees generally.

Governor Deneen submitted the report of the Industrial Commission and the proposed bill to the Senate on April 7, 1909, and urged that they be given early consideration with a view to the enactment of the needed legislation during the current session of the legislature. On the same day Senator Henson introduced the Commission's bill (S.B. No. 385). It passed the Senate and reached the House on May 4.

In the House another bill (H.B. No. 669) dealing with safeguards to be required in industrial establishments had been introduced by Representative Lederer.<sup>1</sup> It was less comprehensive than

<sup>1</sup> It was introduced at the request of a group of employers who apparently desired to confuse the legislators.

the Commission bill, making no provision for sanitation and comfort, and its requirements were in some respects less specific than those of the other bill. The introduction of this dual bill is said to have been due to opposition to two provisions of the Commission's bill. Section 6, of the Commission's bill, which required every employee working with any machinery to examine the same for defects on each working day, and upon discovery of any defect to give notice upon penalty of forfeiting his right of action in case failure to give notice resulted in injury to him, was opposed because it would in many cases have resulted in injustice; and section 7, forbidding an employee to tamper with any machine with which he was not familiar, and which was not connected with his duties, was opposed because it was open to misconstruction. The wisdom of these sections was strongly questioned by friends of the measure. Section 6 was finally eliminated,<sup>1</sup> and section 7 was so amended as to except cases where the employee operated an unfamiliar machine by the direct or reasonably implied direction of the employer or his representative.<sup>2</sup> Thereupon the House bill which had already been passed by the House was not further pushed, and the Senate measure was accepted. The act was approved by the governor on June 4, 1909, and became effective on January 1, 1910.<sup>3</sup>

By this new law Illinois, which had been practically without factory legislation, took its place in the front rank of the states making provision for the health and safety of employees. The law was the only one in the United States which undertook to establish even an elementary standard of ventilation.

<sup>1</sup> The requirement was, however, retained in the notice which was to be posted in every office and workroom of the establishments covered by the act. Paragraph 2 of this notice read as follows: "All machinery must be daily inspected by the operator, and upon discovery of any defects, notice of the same shall be given at once to anyone in authority, and the machine not used until repaired."

<sup>2</sup> This section became section 6 of the act as passed by the legislature.

<sup>3</sup> Owing to the fact that the constitutionality of the law was later challenged on the ground that there was a slight difference in the *Senate and House Journals* at the time of its passage, Chief State Factory Inspector Oscar A. Nelson took steps to secure its re-enactment (Illinois Chief State Factory Inspector, *Twenty-third Annual Report* [1916], p. 33). This was accomplished in 1915 (*Laws of 1915*, p. 418).



"The only real ventilation law in the United States is that enacted in 1909 in Illinois."<sup>1</sup> "Under this kind of law, definite standards are set up which make it possible for the employer to know for himself whether or not he is complying with the law. The possibility of dispute between employer and inspector is largely eliminated, and great economy in time is effected for both. Political influence, the cloud that hangs so ominously over a considerable part of our inspection service, is by the imposition of explicit duties upon State officials, robbed of much of its sinister power."<sup>2</sup>

In the words of Professor Ernst Freund,

The record of the Forty-sixth General Assembly for labor legislation was redeemed by the enactment of the factories and workshops law, which supplies a serious defect in our laws in an admirable manner. Illinois, the third industrial State in the Union, is no longer distinguished by the absence of factory regulations for the health, safety and comfort of the workmen and working women, and can now take its place in that respect with the most advanced communities.<sup>3</sup>

#### MINERS' WASHHOUSE ACT OF 1903

Legislation for the health, safety, and comfort of employees, however, did not cease with the enactment of the 1909 act. For some years previous to the enactment of this law, the coal-miners had been attempting to secure the enactment of a law requiring mine operators to provide washhouses for their employees. Coal-mining is an exceedingly dirty occupation, and the miners felt that the operators might reasonably be compelled to furnish means whereby they could clean up before going home. In 1903, the United Mine Workers succeeded in getting a bill passed by the General Assembly which required the operator of every coal mine in the state to provide and maintain a washroom at a convenient place at the top of each mine for the use of the mine employees. The washrooms were to be so arranged that the miners might hang

<sup>1</sup> *American Labor Legislation Review*, I, No. 2 (1911), 118, in article on "Ventilation" by C.-E. A. Winslow.

<sup>2</sup> *American Labor Legislation Review*, I, No. 2 (1911), 128-29, in article on "Scientific Standards in Labor Legislation," by John and Irene Andrews.

<sup>3</sup> Bulletin of the Illinois Bureau of Labor Statistics prepared by Professor Freund, entitled *Labor Legislation in the Forty-sixth General Assembly of Illinois* (1909), p. 1.



up their clothes for the purpose of drying them.<sup>1</sup> After the act had been in the hands of the courts for three years, the Illinois Supreme Court declared it unconstitutional because it was special legislation in that it placed upon mine-owners a burden not borne by other employers of labor, and discriminated in favor of mine employees as against laborers engaged in other occupations. The constitutional provision requiring the enactment of laws for the protection of operative miners and for the construction of such appliances as would secure safety in coal mines was held by the court to require only the passage of laws protecting miners against personal injury while in the mine.<sup>2</sup>

#### WASHHOUSE LAW OF 1913

After this decision was rendered, organized labor in Illinois, especially the coal-miners, kept up its demands for washhouses, and in 1913 succeeded in securing the passage of a general washhouse law. This law required every owner or operator of a coal mine, steel mill, foundry, machine shop, or other like business in which employees become covered with grease, smoke, dust, grime, and perspiration to such extent that to remain in that condition after leaving their work without washing and cleansing their bodies and changing their clothes would endanger their health or make their condition offensive to the public, to provide and maintain a suitable and sanitary washroom for the use of such employees. It was required that washrooms be provided with hot and cold water, and with lockers in which employees might keep their clothing. During cold weather they were to be sufficiently heated. The state and county mine inspectors and the factory inspectors were charged with the enforcement of the act, and were given power to order such changes as might be necessary to bring the washrooms into conformity with its provisions.<sup>3</sup>

<sup>1</sup> *Laws of 1903*, p. 252.

<sup>2</sup> *Starne v. People*, 222 Ill. 189 (1906). It has been said that while this decision may be open to criticism, its chief effect was not to defeat the type of legislation involved but to make necessary a bad form of draftsmanship in order to accomplish the desired result in subsequent legislation (Illinois Legislative Reference Bureau, *Constitutional Convention Bulletins*, No. 10 [1920], p. 859). See next paragraph.

<sup>3</sup> *Laws of 1913*, p. 359.

The constitutionality of this act was of course attacked in the courts. This time, however, the miners' union, under the leadership of Mr. Duncan McDonald, determined that it be enforced until the decision was handed down, and threatened to tie up the mines of the state if this was not done. The miners were determined that they should not be deprived of the benefit of the law for another three-year period pending final action by the Supreme Court. The operators appealed to the governor, and this official arranged a conference with Mr. McDonald in which he explained that the act was in the hands of the Supreme Court and that nothing could be done until its decision was rendered. Mr. McDonald suggested that the governor call the court's attention to the crisis in the hope that it would act without the usual long delay. He stated that if a decision were rendered at once and if it were unfavorable to the act, another measure could be prepared before the General Assembly adjourned. The governor acted upon this suggestion and dispatched a letter to Chief Justice Farmer. In about two weeks, the Supreme Court rendered a decision holding the act constitutional.<sup>1</sup>

<sup>1</sup> *People v. Solomon*, 265 Ill. 28 (1914). The court held that the act, properly construed, applied to all employments in which conditions existed that made such a law necessary and not merely to the employments enumerated, and was not invalid as class legislation.

The Health, Safety, and Comfort Act of 1909, it will be recalled, made the provision of washing facilities and dressing-rooms dependent upon the kind of establishment in question. The Miners' Washhouse Act had been declared unconstitutional three years earlier, and this act reversed the situation existing at that time. Mines were not affected by the 1909 act, while factories were affected by it. The act thus imposed a special burden upon factories. When the 1909 act was passed it was feared that in order to meet the extreme views held by the Supreme Court, an act would have to be passed applying at the same time to all employments (Illinois Bureau of Labor Statistics, *Labor Legislation in the 46th General Assembly* [1909], pp. 10-11, prepared by Professor Ernst Freund). The 1913 act removed all such fears.

The factory inspection department reported in 1914 that upon the passage of this law most employers laughed at the idea of providing washing facilities for their employees, claiming that they would never be used. The department, however, insisted upon the installation of the facilities required by the act, and reported that the men shortly became eager to avail themselves of a general cleaning-up before

Minor changes were made in the law in 1919 and 1921. The 1919 amendment provided that lockers or hangers should be furnished, instead of only lockers; and the 1921 act required that washrooms be provided with a sufficient number of showers for the use of the employees.<sup>1</sup> In 1925, a bill was introduced in the House, to extend the Washhouse Law to railroad roundhouses, terminal passenger stations, and yard offices. While this bill was pending in the House, however, the Illinois Commerce Commission took up the matter and issued a general order requiring railroads to provide suitable washing and bathing facilities for their employees, thus giving railroad employees the relief sought.<sup>2</sup>

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going to their homes. The effects of the law, however, were said to be more far-reaching than this, since cleanliness became the slogan in the home of the employee and every member of his family conformed to the standard adopted in his place of employment. "This change of conditions was gained from first hand observations in the vicinity of several of the largest mills and foundries in Chicago" (Illinois Chief State Factory Inspector, *Twenty-first Annual Report* [1914], p. 228).

<sup>1</sup> *Laws of 1919*, p. 537; *Laws of 1921*, p. 445. Both of these amendments were proposed by the Mining Investigation Commission. See *House Journal*, 1919, p. 1627, and *Report of the Mining Investigation Commission* (1921), p. 8.

In 1919, organized labor secured the passage of a bill (*H.B. No. 505*) requiring washhouses to have a certain amount of floor space for each employee and making certain provisions concerning sprays, etc. After this bill passed the House, the labor representatives held a conference with a representative of the mine operators who was a member of the Mining Investigation Commission. This man agreed to the provisions of the bill. After the bill passed the Senate, Governor Lowden vetoed it on the ground that it was not approved by the Mining Investigation Commission. See *House Journal*, 1919, p. 1627; Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1919), p. 94. The governor, however, approved the bill proposed by the Mining Investigation Commission.

In 1917, Governor Lowden vetoed a bill which had been recommended by the Mining Investigation Commission and passed as an agreed bill. The bill provided for the installation of either a locker or "suitable lockable hangers." The Department of Labor opposed the bill on the ground that it would weaken the washhouse law. In his veto message, the governor concurred in this opinion and stated that the Mining Investigation Commission had gone beyond its powers in proposing amendments to a law that applied to other industries as well as to mining (*House Journal*, 1917, p. 1822).

<sup>2</sup> See Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1925), p. 247, and *Weekly News Letter*, August 29, 1925.



## THE BASEMENT LAW

The legislature of 1911 returned to the question of protecting employees using emery wheels and emery belts. The use of these machines in any room lying wholly or partially beneath the surface of the ground was prohibited.<sup>1</sup> This act, however, failed to meet the constitutional test. In the case of *People v. Schenck*, 257 Ill. 384 (1913), the Illinois Supreme Court declared the act invalid in that it

indiscriminately condemns all basements, and all rooms beneath or partly beneath the surface of the earth, entirely and arbitrarily because of their location and wholly regardless of whether they are properly lighted and ventilated. It permits the use of emery wheels and belts in any room, however poorly it may be ventilated and lighted, provided it is above the surface.

The act makes "an unwarranted discrimination against persons who carry on the forbidden business in basements, and is not based upon any substantial or rational differences between such places and other rooms" (p. 389).

Following this decision the legislature in 1915 enacted substantially the same provisions<sup>2</sup> with a change of wording designed to overcome the court's objection. The manufacture, repairing, or altering of any metals, wares, or merchandise which might produce or generate poisonous fumes or dusts in harmful quantities, such as metal polishing, grinding, plating, and dipping of metals in acid solutions or dips, were declared to be especially dangerous to the health of the employees so engaged, and might be carried on only in rooms lying wholly above the surface of the ground. The factory inspectors were charged with the enforcement of the act. To employees who sustained injury to their health proximately caused by any wilful violation of the act by the employer or wilful failure to comply with any of its provisions, a right of action was given for any direct damages sustained thereby; and in case of death of the employee, a right of action accrued to the widow or dependents for recovery of damages not to exceed the sum of twenty-five thousand

<sup>1</sup> *Laws of 1911*, p. 314.

<sup>2</sup> *Laws of 1915*, p. 431.



dollars. Suits for damages in case of death were required to be commenced within two years after the death of the employee.

In 1917 a bill (H.B. No. 443) was passed by both houses of the legislature amending sections 1, 3, and 4 of this act. The first section of the law was ambiguous and this amendment sought to make the meaning clear. The penalties provided for in sections 3 and 4 were also changed. The attorney-general considered section 1 unconstitutional under the decision of the Supreme Court in the case of *People v. Schenck*,<sup>1</sup> and Governor Lowden vetoed the measure for this reason.<sup>2</sup>

#### BUILDING CONSTRUCTION ACT

In the meantime it was found necessary to extend the protecting arm of the state in still another direction. In 1907, owing to the rapid strides that had been made in the development of the skyscraper and the dangers connected with their construction, Chief Factory Inspector Davies drafted and secured the introduction of a bill designed to safeguard as much as possible employees engaged in erecting buildings, bridges, and other aerial structures. The act<sup>3</sup> as passed required all scaffolds, hoists, cranes, ladders, etc., used in construction work to be constructed and operated in such manner as to give adequate protection to employees. If the factory inspector or local authority charged with the enforcement of building laws found unsafe scaffolding or other equipment being used in construction work, he was to see that such equipment was properly strengthened or altered before permitting it to be used further. Careful provisions were made regulating various operations and methods used in construction work, such as signals used in connection with hoisting apparatus; laying of temporary floors; intermediate supports for joists; barricading or guarding of all openings; posting of placards at dangerous points, and others, showing the sustaining power of various parts of the building during construction; and laying of floors to within two stories of the point where

<sup>1</sup> See above, p. 244.

<sup>2</sup> The veto message and opinion of the attorney-general may be found in *House Journal*, 1917, pp. 1798-1800.

<sup>3</sup> *Laws of 1907*, p. 312.

structural steel erection was going on. In cities having a local building commissioner, such commissioner was charged with the enforcement of the act; but if he should fail to do so, or if there were no such officer, enforcement was delegated to the state factory inspectors. Violations of the act were punishable by a fine of from \$25 to \$500, or by imprisonment for from three months to two years, or by both fine and imprisonment. For any injury to person or property caused by wilful violation of the act or wilful failure to comply with any of its provisions, a right of action was given the party injured for any direct damages sustained thereby, or in case of death such right accrued to the widow, lineal heirs or other dependents.<sup>1</sup>

The enforcement of this law was responsible for a 60 per cent decrease in fatal accidents, and a 65.7 per cent decrease in loss of time to men engaged in the building trades in 1908 as compared with 1906.<sup>2</sup>

In 1917, the building trades organizations drafted a bill (H.B. No. 363) which they believed would correct certain defects which enforcement of the 1907 act had made manifest. It required all scaffolding to be roofed to prevent injury to workers from falling objects, and provided that safety nets be strung beneath scaffolding that was thirty-two feet or more above the ground. All elevators, shafts, or other openings were to be covered while workmen were employed in or about them, and all elevator shafts were to be completely enclosed in such manner as to prevent material from falling to the ground outside. When bridge structures or viaducts were being erected, all beams were to be laid and fastened so as to prevent material from falling therefrom. Sanitary and sufficient toilet facilities were to be supplied for the use of all employees engaged in the construction of any private or public works. This bill was referred to the Industrial Committee of the House and then intrusted to a subcommittee which conducted hearings in Chicago.

<sup>1</sup> The building construction act was upheld by the United States Supreme Court in the case of *Chicago Dock Co. v. Fraley*, 228 U.S. 680 (1913), affirming 249 Ill. 210.

<sup>2</sup> Factory Inspectors of Illinois, *Sixteenth Annual Report* (1908), p. x.

The subcommittee made an unfavorable report, which was accepted by the full committee, and the bill was reported back to the House with an unfavorable recommendation.

Immediately thereafter, the Chicago building contractors' organizations, seeing their strength in this committee, prepared a bill of their own which was introduced (H.B. No. 695) by Representative Hamlin at the request of Mr. Bostrom, the Chicago building commissioner. This bill, it was claimed, would lead to two improvements over the 1907 act. First, it would make the law more definite, not only as to the rights and obligations of the contractor, but also as to those of the working man; second, it would eliminate the alleged dual system of inspection under the old law. Mr. Hamlin asserted that the bill had been very carefully considered and indorsed by the engineers, architects, and contractors of the state. Its opponents, however, declared that the object of the contractors was to take the power of enforcement from the state factory inspectors, who had been forcing them to observe the 1907 law, and to place it solely in the hands of local building commissioners, who had often been lax in this respect. It will be recalled that the enforcement of the 1907 act was in the hands of local building commissioners in cities having such officers; but in case they failed or refused to act, the state factory inspectors were to enforce it. All of the building trades unions opposed the bill except the Bricklayers' Union, which favored its passage because of a section requiring better scaffolding for members of that trade. The bill, however, was passed by the House.<sup>1</sup> The Senate also passed it after the Illinois State Federation of Labor had failed to secure the adoption of amendments that would restore to the state factory inspectors their power of enforcement.<sup>2</sup>

Thereupon several of the building trades unions urged Governor Lowden to veto the bill. The Governor saw the logic of their argument and justified his veto in the following words:

<sup>1</sup> Illinois State Federation of Labor, *Weekly News Letter*, April 27, June 16, 1917; *House Debates* (1917), pp. 699-700.

<sup>2</sup> *Senate Debates* (1917), pp. 1148-50.



The vital objection of this bill is that it takes away from the Department of Labor the enforcement of its provisions, giving such enforcement to the local authorities.

Under the Act of 1907 (which this bill seeks to amend), the local authorities had original jurisdiction in the matter of enforcement, but in the event such local authorities refused or failed to act, then the Department of Labor was to enforce the Act. This bill seeks to take away all jurisdiction from the labor department in cities, towns, and villages where there is a local building commissioner, health commissioner, etc. In the event the local authorities refuse or fail to act, the Department of Labor is powerless to act.

An examination of the original Act, of which this is amendatory, reveals the fact that it does not provide for double inspection, but simply authorizes the State inspector where local authorities fail to enforce adequate inspection.<sup>1</sup>

#### COMMISSION ON BUILDING LAWS

In 1911, owing to the unorganized nature of the building laws of the state, the General Assembly authorized the governor to appoint a commission to investigate the question of building and submit a revision and codification of the building laws such as would regulate the construction, sanitation, and protection from fire of buildings within the state so that the greatest protection to health and safety to life and limb and property might be assured to the people of the state.<sup>2</sup> This commission was to be composed of seven members: two architects, one of whom was to be a member of the State Board of Examiners of Architects; two structural engineers; one fire protection expert; one building contractor, and one member for whom no specific qualifications were fixed.<sup>3</sup>

The commission found that the building laws of the state related chiefly to the safety of workmen during the construction of buildings and the safety and health of workmen in factories. In only a few instances were these laws concerned in any way with

<sup>1</sup> *House Journal*, 1917, pp. 1810-11.

<sup>2</sup> *Laws of 1911*, p. 61.

<sup>3</sup> The commission was composed of: N. Clifford Ricker, chairman; William S. Stahl, secretary; William C. Armstrong; Ira O. Baker; George J. Jobst; William H. Merrill, and Richard E. Schmidt.



methods of construction or the general safety of buildings.<sup>1</sup> Consequently, instead of merely codifying and rearranging the existing building laws of the state, the commission decided to prepare a new and comprehensive law covering every phase of the subject. Since the building ordinance of Chicago was one of the most complete and efficient of any in the United States, and since it was already applicable to a large proportion of the population of the state, the commission thought it best to prepare a bill that would be in harmony with this ordinance. Owing to certain inconsistencies in the Chicago ordinance resulting from several revisions, and to the fact that it contained several features that were hardly applicable to the lesser cities of the state, the commission decided to revise it thoroughly and adapt it to the needs of the state at large. In making this revision the commission carefully studied the building laws of the principal cities of the United States, and endeavored to incorporate in their bill the more valuable features found therein. The commission believed that their bill might rightly be regarded as embodying suitable minimum requirements for any city in the state. The bill distinctly provided that any municipality might make additional requirements and provide for the enforcement of the same by its own officials. The bill did not apply to private residences not more than two stories or thirty feet in height, nor to farm buildings of any kind. Such buildings were excepted because they were comparatively small and were seldom occupied by any

<sup>1</sup> These laws and the dates of their enactment were:

1. An Act Requiring Doors to Open Outward, 1874.
2. An Act for Licensing of Architects, 1897.
3. An Act Relating to Fire Escapes, 1899.
4. An Act for Safety during Building Construction, 1907.
5. An Act Relating to the State Fire Marshal, 1908.
6. An Act for Factory Inspection, 1909.

In 1913 an additional law (*Laws of 1913*, p. 356) was passed requiring every mason contractor or employing mason in cities of 150,000 or over to obtain an annual license. They were required to pass an examination before a board of examiners consisting of the building commissioner of the city, one practical architect, and one practical mason appointed by the mayor. In 1915 this law was amended by requiring all three members of the examining board to be practical masons (*Laws of 1915*, p. 430).

considerable number of persons.<sup>1</sup> When the bill was introduced into the legislature in 1915,<sup>2</sup> numerous objections were raised to many of its provisions; consequently, the General Assembly thought it desirable that the bill be revised so as to meet all reasonable demands before being enacted into law. A joint committee was appointed consisting of three members of each house, whose duty it was to revise the bill so as to obviate all reasonable objections, or to prepare and submit a new bill covering the same subject matter to the next General Assembly.<sup>3</sup> It appears that nothing further was done, however, and no building code has been enacted.<sup>4</sup>

#### PROTECTION OF TRANSPORTATION EMPLOYEES

Legislation in Illinois for the protection of workers engaged in transportation service began in 1903, when a law<sup>5</sup> was passed requiring vestibules of street cars to be inclosed during the months of November to March, inclusive, in such manner as to protect the motorman or conductor from wind and storm. In 1913, a similar law<sup>6</sup> was passed applying to automobiles or automobile trucks used for the delivery of merchandise, produce, or freight. This law was not limited in its operation to a few months of the year, but was designed to protect chauffeurs from wind, dust, and inclement weather throughout the entire year.

Although organized labor as early as 1885 demanded a law to protect railroad employees,<sup>7</sup> not until 1905 was the first act of this

<sup>1</sup> The report of the commission and the text of the bill may be found in *Senate Journal*, 1915, pp. 356-446. The bill itself fills practically the whole of this space.

<sup>2</sup> It became Senate Bill No. 371.

<sup>3</sup> S.J.R. No. 29, *Laws of 1915*, p. 730.

<sup>4</sup> Some of the building trades unions oppose the enactment of a state building code since they are afraid they will lose some of the protection afforded by the Chicago building code.

<sup>5</sup> *Laws of 1903*, p. 289.

<sup>6</sup> *Laws of 1913*, p. 334.

<sup>7</sup> See Staley, *History of the Illinois State Federation of Labor*. Massachusetts, in 1884, enacted a law requiring the use of automatic couplers, and organized labor in Illinois immediately took the cue. The need for automatic couplers is shown by the

kind passed. The law of 1905<sup>1</sup> made it unlawful for any common carrier engaged in moving traffic by railroad between points in this state to use in this traffic any locomotive not equipped with a power driving-wheel brake and appliances for operating the train brake system, or to run any train that had not a sufficient number of cars in it equipped with power brakes controlled by the engineer to enable the engineer to control the speed of the train without requiring brakemen to use common hand brakes for the purpose (sec. 1). Not less than 50 per cent of the cars on each train were to have power brakes controlled by the engineer, but in order to carry out more fully the objects of the act, the Railroad and Warehouse Commission might, after a full hearing, increase this minimum percentage (sec. 8). Automatic couplers as well as secure grab irons or handholds were also required (secs. 2 and 4). The act did not apply to trains, locomotives, etc., used in interstate commerce (sec. 6). Employees of a common carrier injured by rolling stock in use contrary to the provisions of the act were not to be deemed to have assumed the risks occasioned thereby, nor to have been guilty of contributory negligence because of continuing in the employment after the unlawful use of this rolling stock had been brought to their knowledge (sec. 9).

A separate act<sup>2</sup> was passed by the same legislature providing for the inspection of the equipment required by the above act. The Railroad and Warehouse Commissioners were authorized to appoint an inspector of automatic couplers, power brakes, and grab irons or handholds, on railroad locomotives and other rolling stock. No officer or employee of a railroad company or person interested in the stock or bonds of any railroad company, or who had not had at least seven years of practical experience on some line of railroad

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fact that in 1890, when only about 10 per cent of railway cars had such equipment, accidents in the coupling of cars accounted for almost half of all casualties to trainmen, while in 1912, when over 99 per cent of all cars were so equipped, the proportion of accidents from this cause was reduced to about 8 per cent. See Commons and Andrews, *Principles of Labor Legislation* (1927), p. 414.

<sup>1</sup> *Laws of 1905*, p. 350.

<sup>2</sup> *Ibid.*, p. 349.



operated in Illinois in one or more of the following capacities, engineer, fireman, conductor, yardmaster, brakeman, train baggageman, switchman, car inspector, or repairer, was eligible to hold the office of inspector. The inspector was to receive a salary of \$1,500 a year, and an allowance of \$1,000 a year for necessary expenses. He was under the supervision of the Railroad and Warehouse Commissioners and was to make weekly reports to them of his inspections, reporting in detail concerning defective rolling stock inspected.

In 1909, a law<sup>1</sup> was passed regulating the size and manner of construction of all caboose cars on any railroad situated wholly or in part within the state. Enforcement of this act was placed in the hands of the Railroad and Warehouse Commissioners.

Railroad legislation thus had far been haphazard in character and no revision or codification of these laws had been made. In 1909, however, the railroad employees' lobby composed of conductors, firemen, engineers, and trainmen brought in a resolution (S.J.R. No. 43) authorizing the appointment of a Railroad Investigation Commission whose duties were to investigate the physical condition of all railroads in the state, their methods of operation and management with respect to the safety of employees as well as service to the public, and the needs and requirements for future railroad development and improvement. Its duties also included a study of the relation of the public and the municipalities of the state to railroad operation and the railroad business. The commission was to consist of four general operating officers of the railroads, nominated by the General Managers' Association, and four railroad employees in actual service of railroads, nominated by the respective organizations of railroad employees, two of each class to be appointed by the lieutenant-governor and the speaker of the House of Representatives, respectively. The ninth member was to be a lawyer not identified or affiliated with the interests of either the railroad companies or employees' organizations or dependent upon the patronage or good will of either, nor holding political office. He was to be selected by the other members of the commis-

<sup>1</sup> *Laws of 1909*, p. 306.



sion. The commission was to report to the governor and to the next General Assembly, submitting, so far as they had unanimously agreed, a proposed revision of the railroad laws of the state, together with such other recommendations as seemed proper. Minority reports, if any, were to be submitted also.

The passage of the resolution creating the Railroad Investigation Commission was involved with an employers' liability bill, House Bill No. 15, which was fostered by the labor organizations of the state. House Bill No. 15 had passed the House and was on the Senate calendar before Senate Joint Resolution No. 43 was introduced. The Legislative Committee of the Chicago Federation of Labor stated that they were assured by the railroad workers and Senator Hurburgh, who had introduced the resolution, that this resolution had no reference to the employers' liability bill; but the next day after its passage, when House Bill No. 15 was put on order of second reading, Senator Gardner moved that the bill be referred to the commission authorized by the resolution. This motion was carried and H.B. No. 15 was lost. On the last day of the legislative session, however, the Joint Labor Lobby, which included the Legislative Committee of the Chicago Federation of Labor, secured reconsideration by the House of Senate Joint Resolution No. 43. This time the House refused to concur with the Senate in the adoption of the resolution.<sup>1</sup> Its former action had been certified by the speaker of the House, however, and the resolution is included among the session laws of 1909. Because of this heated controversy no commission was appointed.

Other railway laws that may be mentioned here are laws fixing requirements for headlights on locomotive engines,<sup>2</sup> increasing the number of inspectors from one to three,<sup>3</sup> both passed in 1913, and

<sup>1</sup> For a statement of this matter see "Report of the Legislative Committee of the Chicago Federation of Labor" in *Union Labor Advocate*, August, 1909, p. 7. This report and a supplementary report may also be found in a bulletin prepared by Professor Ernst Freund for the Illinois Bureau of Labor Statistics, entitled *Labor Legislation in the Forty-Sixth General Assembly* (1909), pp. 188-92.

<sup>2</sup> *Laws of 1913*, p. 506.

<sup>3</sup> *Ibid.*, p. 508.

an act passed in 1915<sup>1</sup> requiring first aid kits and instruction of enginemen and trainmen in their use. In 1917, an act was passed<sup>2</sup> amending section 6 of the act of 1905 by exempting narrow gauge railroads from its application, and by specifically excluding from the restrictions of the act any orders the State Public Utilities Commission might lawfully make with regard to the health and safety of the employees, passengers, and customers of such railroad, or the public.

Besides these laws, the trade unions have attempted from time to time, but without success, to secure the enactment of laws limiting the number of cars contained in one train, requiring car sheds to protect employees from the weather, requiring "full crews" on trains,<sup>3</sup> etc.

#### SWEATSHOP ACT OF 1893

One of the interesting early developments in the field of factory legislation in Illinois was the movement culminating in the Sweatshop Act of 1893. Although the sweating system had been in existence in Chicago for nearly a generation, it attracted very little public attention until the early nineties. In 1891, the Chicago Trades and Labor Assembly appointed a committee consisting of five delegates from the unions and five persons outside their mem-

<sup>1</sup> *Laws of 1915*, p. 559. This act prescribed what these kits should contain. An amendment passed in 1925 authorized the Illinois Commerce Commission to prescribe the articles to be provided (*Laws of 1925*, p. 512).

<sup>2</sup> *Laws of 1917*, p. 647. In 1917, Governor Lowden vetoed H.B. No. 663, which vested the power of enforcement of the 1905 act in the Department of Trade and Commerce. The Governor believed this power should rest with the Public Utilities Commission, which was the successor to the Railroad and Warehouse Commission. He was afraid that the bill would tie the hands and limit the power of the Public Utilities Commission with reference to the installation of safety appliances required by the act of 1905 (*House Journal*, 1917, p. 1354).

<sup>3</sup> The labor interests have not always been a unit in the support of these bills. In 1909, for instance, a switchmen's full crew bill (S.B. No. 194) was opposed by some railroad employees on the ground that it might curtail the earning capacity of the roads and thus reduce their wages. What its advocates thought of the employees holding this attitude is shown by the following quotation: "These so-called union men are not affiliated with the A. F. of L. and therefore are not part of the trade union movement. Hence their action." See *Union Labor Advocate*, August, 1909, p. 7.

bership, whose duty it was to investigate conditions in the <sup>mar</sup>sweated trades of Chicago.<sup>1</sup> The results of this investigation were published in pamphlet form and the matter was thus brought before the public eye. A continued agitation by trade unionists and others served to augment the vision, and a state of genuine public alarm soon developed. Mrs. Florence Kelley, an early resident of Hull-House, suggested to the Illinois Bureau of Labor Statistics that they make an investigation of the sweating system in Chicago, with its attendant child labor; and owing to the public concern and the need of a factual basis for legislative control of the situation, the head of the Bureau adopted this suggestion and engaged Mrs. Kelley to make the investigation. The facts disclosed by the investigation were embodied in the report made by the Bureau to the governor in November, 1892.<sup>2</sup>

It was found that popular apprehensions concerning the sweating system were amply justified except in one particular, namely, its extent. It had been supposed that there were several thousand sweatshops of all grades and kinds in Chicago, and that probably 30,000 or 40,000 persons were employed in them; but a most careful search<sup>3</sup> disclosed only 666 shops employing 10,933 persons.<sup>4</sup> Inasmuch as the investigation was made between March and June, 1892, when there was only moderate activity in the garment trades, this enumeration fell short of the maximum of the rush season; but in the judgment of those who made the investigation, 800 was a conservative estimate of the whole number of shops, and 13,000 a fairly accurate estimate of the maximum number of persons employed in them during the busy season.<sup>5</sup>

<sup>1</sup> Mrs. Thomas J. Morgan, wife of a prominent labor and socialist leader, was chairman of this committee.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Seventh Biennial Report* (1892), pp. 357-443.

<sup>3</sup> "It is improbable, of course, that every shop was found; it is certain that few escaped" (*Report*, p. 369).

<sup>4</sup> Of these, 2,669, or about one-fourth, were men and boys; the remainder, women and girls. Of the total number, five or six hundred were children who should have been in school, and five or six thousand were young girls.

<sup>5</sup> *Report*, p. 370.



In every other respect the conditions found in Chicago were the same as those found in London, New York City, and other large cities where similar investigations had been carried on. In the clothing industry of Chicago three kinds of shops had developed, known as "inside shops," or those conducted on a factory basis by the manufacturers themselves, "outside shops," or those conducted by the contractors or "sweaters," and "home shops," where family groups worked upon garments in their own dwellings.

The inside shops were in large buildings, steam was provided for motive power, the sanitary ordinances were observed to some extent, and the establishments, being large and permanent, were known to the municipal authorities and were subject to inspection.<sup>1</sup> The sweating system, however, dominated to a large extent even these factories, since any demands by their employees for increased wages or shorter hours were promptly met by a transfer of work from the factory to the sweater. Some manufacturers turned their factories into mere cutters' shops, and gave out all their garments to contractors for making.

The outside shops were conducted by contractors who undertook to manufacture garments in shops of their own, but using materials owned and cut by the manufacturers. These contractors did not make common cause against the manufacturers, but underbid one another in order to obtain work, and then frequently exploited their employees to the utmost so as to make a profit on the transaction. The sweaters had practically no commercial risks; they gave but small security to the manufacturer for the goods intrusted to their care; they ordinarily paid only one week's rent in advance for their shops and bought their sewing machines on the instalment plan by making small weekly payments, or even required their employees to furnish their own machines; and, finally, they did not pay their employees until they had received their money from the manufacturers for the finished lot. As might be expected, these shops were of an extremely provisional nature—they were always changing location or going out of business, only

<sup>1</sup> The city of Chicago at that time had a sanitary and tenement inspection service, provided by an ordinance of October 27, 1879.



to be replaced by others of the same character. This fact made the process of enumeration very difficult. The sweaters were almost entirely beyond official control because it was easier for them to move than to bother about complying with official requirements. Their shops were usually overcrowded and filthy, the sanitary arrangements were foul and inadequate, and the employees, among them many small children, were sadly overworked and underpaid. The better shops were generally in the hands of Bohemians and Scandinavians who owned about one-half of the total number. The business, however, had been driven into the very lowest quarters of the city, where cheap tenements and cheap labor were concentrated; and at the time of the investigation, it was spreading among newly arrived Russian Jews and Poles, who eagerly took in the cheapest work and executed it under most squalid conditions.

The worst conditions of all, however, prevailed among families who finished garments at home. A single room frequently served as kitchen, bedroom, living-room, and workroom. The rooms were usually small, overcrowded and poorly ventilated; they were often dark owing to their location in basements, attics, or other poorly lighted places; no pretense was made as to sanitation, and filth and vermin abounded; the air outside, especially in summer, was hardly less foul than that inside; diseases of all kinds existed but did not interfere appreciably with the work, which was carried on during the busy season until the workers sometimes dropped from exhaustion.

The report summarized the arguments commonly made in defense of the system.<sup>1</sup> Some people affirmed that it was a natural consequence of industrial conditions which could not be controlled, and that there was no remedy for it. Foremost among these were the manufacturers who profited by the system. The sweater relieved them of the expense, risk, and responsibilities involved in maintaining factories of their own; and keen competition among the sweaters was gradually diminishing the manufacturers' cost of producing the garments. It was also claimed that the great demand for ready-made garments could not be supplied in any other way

<sup>1</sup> *Report*, p. 400.

at so low a figure; that the sweater was a necessary agent or middleman between the manufacturer and the immigrant, and that his profits were not greater than the value of the services rendered to both; that the workpeople were eager to get work even at the prices paid by the sweater, and that to deprive them of it would reduce them to beggary. Then, of course, there was the threadbare argument that home finishing enabled thrifty women to contribute to the support of their families, and made it possible for widows to stay with their children while working, and that the system thus made use of an element of labor that would otherwise go to waste.

Those opposing the system conceded the pecuniary advantage to the manufacturer, and possibly a lower range of prices for ready-made clothing, but pointed out the fearful cost to society of allowing such a system to exist. The system utilized the labor of women, many of whom had able-bodied husbands, and whose time should have been devoted to their homes and their children; the labor of young children who could not work without detriment to themselves, to adult labor, and to the state; and the labor of young girls who contracted permanent disability from operating heavy-treading foot-power machines. The total insufficiency of the earnings of widows for the support of a family nullified any advantage the system appeared to extend to them. Poverty was the best they could hope for even during the busy season, but extreme destitution was almost sure to be their lot during the slack season. It was hardly necessary to refute the argument that the sweater was needed as an intermediate agent between the manufacturer and the immigrant who could not speak English, since it was obvious that the foremen or employees in a factory run under respectable conditions could readily serve in that capacity. It had been contended that the sweating system afforded opportunity for individual enterprise on the part of large numbers of persons, which could not exist under a factory system; but the abuse of this opportunity was believed by many to have resulted in far greater public injury than would have resulted from concentration of industry in factories. Finally, to argue that the system rested upon conditions that could not be controlled was nothing less than unconditional surrender in

the face of an evil of serious proportions. This argument was on a parity with, and, indeed, must have harked back to certain "economic laws" of a century ago which resulted in economics being dubbed "the dismal science."

Various specific measures designed to eradicate the evils of the sweating system were suggested, such as licensing of contractors, prohibition of manufacturing in tenement houses, prohibiting children under a certain age from working for hire, and defining the number of hours per day during which women and children above that age might work, requiring a tag to be attached to each garment made by contractors showing who had made it and where it had been made, requiring power driven machinery, and, finally, requiring separate rooms for pressers and the apparatus for heating irons. Above all, however, the report emphasized the necessity for adequate means of enforcement of such laws as might be passed.<sup>1</sup>

After this report was presented to the General Assembly, a special committee of seven members, three senators and four representatives,<sup>2</sup> was appointed and given full power to investigate the sweating system in Chicago and to recommend whatever legislation it deemed necessary to preserve the public health and to regulate the manufacture and sale of clothing, wearing apparel, and other articles in Illinois.<sup>3</sup>

This committee spent five days<sup>4</sup> in Chicago visiting various tenement quarters of the city and inspecting places where clothing was being manufactured under typical sweatshop conditions. They were piloted about these districts by representatives of the Chicago Trades and Labor Assembly and by workers from Hull-House. It was found that "the sanitary condition and arrangements of the shops were, in the majority of instances, very bad and unfit for human habitation." "Bad smells and noxious odors" were char-

<sup>1</sup> *Ibid.*, p. 402.

<sup>2</sup> The committee was composed of Senators Edward T. Noonan, chairman, Joseph P. Mahoney, Pleasant T. Chapman, and Representatives Joseph A. O'Donnell, Luther M. Dearborn, Charles S. Deneen, and Stephen D. May.

<sup>3</sup> For text of the resolution see *Senate Journal*, 1893, p. 130.

<sup>4</sup> February 10-14, 1893.



acteristic of all the shops visited. In nearly every shop visited, employing from ten to one hundred and twenty persons each, the men, women, and children were all compelled to use the same toilet, which was usually located in the yard and was in a most offensive condition. Physicians testified that diseases were often spread by tenement-made garments, and the fact that epidemics of contagious diseases had been traced to the sweatshops was an important factor in arousing public opinion against the system. In some cases no measures were taken to heat the workrooms—the heat from the small stoves of the pressers and the warmth generated by the large numbers of workers huddled in the same room were deemed sufficient. Clothing in process of manufacture was often stored in the living-room, and in some cases was used as bedding by the occupants. In most of the basement shops, lamps were needed for illumination during the entire day. A very large proportion of the machine operators were found to be women and girls, and the work was notoriously injurious to them because in many instances they were obliged to use heavy foot-power machines and to handle material that was heavy, stiff, and dyed with injurious dyes. The children employed in the shops appeared to be only from nine to twelve years of age and in some instances stated that that was their age but, later, after being coached by the owner of the shop, they stated that they were fourteen years of age. The compensation received by the men ranged from five to twelve dollars, that of the women workers from three to seven dollars, and that of the girls from seventy-five cents to two dollars and one-half a week. These low wages were attributed in part to the competition of garments made in penal institutions in eastern states. It was learned that the employees lost from two to three months in the course of a year from lack of employment. In short, it was found that the sweating system was productive of moral and physical wretchedness to thousands of men, women, and children in the state of Illinois, and that it caused the spread of infections and contagious diseases throughout the country and was therefore detrimental to the health and welfare of the public.<sup>1</sup> The com-

<sup>1</sup> Report of the Committee, published in *Senate Journal*, 1893, pp. 339–41.



mittee recommended the passage of two bills which were offered as a "partial remedy" for the evil: the first was one to regulate the manufacture of clothing and other articles in Illinois, the second to regulate the sale of the products of convict labor. The first bill became a law, but the second failed to pass.

The sweatshop bill received very wide support. Governor Fifer, in his farewell message to the General Assembly, called attention to the investigation made by the Illinois Bureau of Labor Statistics, and urged the passage of a law restricting the hours of labor of women and children and governing the construction and inspection of the buildings in which they were employed.<sup>1</sup> Governor Altgeld, in his inaugural address, urged legislation on the sweating system and child labor.<sup>2</sup> Residents of Hull-House, who had been leaders in the movement from the very beginning,<sup>3</sup> addressed open meetings of trade unions and benefit societies, church organizations, and social clubs literally every evening for three months.<sup>4</sup> The Hull-House residents that winter had their first experience in lobbying when they went to Springfield to urge passage of the bill.<sup>5</sup> The General Federation of Women's Clubs, which was organized in Chicago in 1892, was at that time timid in regard to all legislation because it was anxious not to frighten its new membership, but its second president, Mrs. Charles Henrotin, was most untiring in her efforts to secure passage of the law.<sup>6</sup> The trade unionists were of course exceedingly energetic in their support of the bill. One writer states that credit for the law belongs chiefly to Mrs. Florence Kelley, but adds that without Governor Altgeld's energetic co-operation with Mrs. Kelley and others who were pushing the bill, there is doubt whether it would have been passed.<sup>7</sup>

<sup>1</sup> *House Journal* (1893), pp. 26-27.

<sup>2</sup> *Ibid.*, pp. 53-54.

<sup>3</sup> Two residents of Hull-House served on the committee which investigated conditions in 1891 at the instance of the Chicago Trades and Labor Assembly.

<sup>4</sup> Jane Addams, *Twenty Years at Hull-House* (1910), p. 201.

<sup>5</sup> *Ibid.*, p. 202.

<sup>6</sup> *Ibid.*

<sup>7</sup> Waldo R. Browne, *Altgeld of Illinois* (1924), p. 191.

The most bitter opposition to the bill came from the large glass companies who were so accustomed to use the labor of children that they were convinced that the manufacture of glass could not be carried on without it.<sup>1</sup> Other manufacturers whose interests were affected by the proposed law were also among the opposition. Then, as usual, there were "a few kind-hearted persons apprehensive of possible injury to the home-finishing widow, because they do not know her well enough to judge correctly her present irreparable situation."<sup>2</sup>

The law was primarily a sanitary measure and did not attempt to protect the employee from death by fire or from mutilation by unguarded machinery. The first three sections were designed to protect the community from the diseases which inevitably accompanied the manufacture of clothing under the sweating system. The rest of the law aimed to protect the health of the women and children employed in all forms of manufacture. The legislators who framed the law examined the tag and license provisions of the Massachusetts and New York laws, but decided that a more effective measure would be an eight-hour provision.<sup>3</sup>

The act<sup>4</sup> as passed prohibited the manufacture of coats, vests, trousers, knee-pants, overalls, cloaks, shirts, ladies' waists, purses, feathers, artificial flowers, or cigars in apartments, tenement houses, and rooms used for eating or sleeping purposes, except by the immediate members of the family living therein. Every such workshop was required to be kept clean, and every article manufactured therein was subject to inspection for the purpose of discovering whether it was clean and free from vermin, infectious or contagious matter. Every person occupying or having control of any such

<sup>1</sup> Jane Addams, *op. cit.*, p. 206.

<sup>2</sup> *Hull-House Maps and Papers* (1895), p. 44, in chapter on "The Sweating System" by Mrs. Florence Kelley.

<sup>3</sup> International Association of Factory Inspectors of North America, *Proceedings of the Seventh Annual Convention* (1893), p. 8, paper by Mrs. Florence Kelley, on "Factory Legislation in Illinois."

<sup>4</sup> *Laws of 1893*, p. 99. Some of its provisions were borrowed outright from New York and Massachusetts laws dealing with the same subject.

workshop was required to notify the board of health of its location, the number of employees, and the nature of the work carried on in it (sec. 1).

If the board of health or state factory inspectors found evidence of infectious or contagious disease present in any such workshop or in the articles manufactured therein or found the workshop in an unhealthy condition, they were to issue such orders as the public health might require, and the board of health was to destroy all such infectious or contagious articles (sec. 2).

If any of the enumerated articles were transported into the state after being manufactured under unhealthy conditions outside the state, the inspector was to examine such goods and the condition of their manufacture; and if they were found to contain vermin or were made in improper places or under unhealthy conditions, such orders were to be issued as the public health required, and the board of health was empowered to destroy all such articles (sec. 3).

Sections 4, 5, and 6 placed restrictions upon the employment of women and children.<sup>1</sup>

Section 7 required manufacturers to keep complete lists of all such workshops in their employ, and to produce them for inspection by the board of health or the factory inspectors appointed under the act.

The governor was to appoint a factory inspector at a salary of \$1,500 per annum, an assistant factory inspector at \$1,000 per annum, and ten deputy factory inspectors, of whom five were to be women, at a salary of \$750 each, whose duty it was to enforce the provisions of the act and prosecute all violations. These inspectors were to inspect as often as practicable the workshops, factories, and manufacturing establishments of the state coming within the scope of the law. They were to report annually to the governor, and were to make such special investigations into alleged abuses in such workshops as he might direct (sec. 9). Section 10 appropriated \$20,000 for salaries of the inspectors, and \$8,000 for

<sup>1</sup> These sections are discussed in detail in the chapters on "Hours of Labor for Women" and "Child-Labor Legislation," see pp. 153 ff., 188 ff.



traveling and other necessary expenses, but not more than \$4,000 for the latter purpose in any one year.<sup>1</sup>

The passage of this law was expected by some people to lead to dire consequences with respect to the industrial prosperity of the state.<sup>2</sup> Business men associated the law with radicalism because it was passed during the term of Governor John P. Altgeld. Although nothing could have been farther from anarchy than this law, the fact that Governor Altgeld had pardoned the anarchists who had been imprisoned after the Haymarket Riot, and had said some rather uncomplimentary things about Judge Gary, who presided at their trial, gave his enemies a pretext for their attack upon the law.<sup>3</sup> There was still another reason for opposition to the law by business men. The law ran counter to the traditions of pure individualism and non-interference with business activity by the government. Illinois still exhibited many of the characteristics of a pioneer country in which men depend upon their own industry and resourcefulness for their success, and a law limiting the scope for the exercise of these qualities was thought to be exceedingly pernicious by the group of "self-made" men of the old school.<sup>4</sup>

Governor Altgeld appointed Mrs. Florence Kelley chief factory

<sup>1</sup> The clause making the appropriation for inspectors' salaries was declared unconstitutional by the Illinois Supreme Court in the case of *Ritchie v. People*, 155 Ill. 98 (1895), since the appropriation for the salaries of factory inspectors was a subject not expressed in the title and was therefore void under section 13, article 4 of the state constitution. This decision, however, did not seriously interfere with the enforcement of the law, since the decision was rendered during the 1895 legislative session and appropriations for the next biennium were soon available.

<sup>2</sup> After the law was passed, a prominent Illinois business man informed Governor Altgeld that he and his associates were closing a large factory and were putting this legend over the door: "Closed because of the pernicious legislation in Illinois." The Governor replied that he would be quite willing to have them close the factory if he might be permitted to change the legend to read: "Closed in the interests of the children of Illinois." This anecdote was told by Miss Jane Addams. See Waldo R. Browne, *Altgeld of Illinois* (1924), p. 193.

<sup>3</sup> Governor Altgeld's pardon message is printed in pamphlet form, and is entitled *Reasons for Pardoning Fielden, Neebe and Schwab* (1893). It is also reprinted in full in John P. Altgeld, *Live Questions* (1899), pp. 365-400.

<sup>4</sup> See Jane Addams, *Twenty Years at Hull-House* (1910), p. 206.



inspector, and a vigorous enforcement of the act was begun.<sup>1</sup> It was soon discovered, however, that the act was too loosely drawn to accomplish the results hoped for. The inspectors were able to secure a reduction in the number of small children employed in the shops, and were partially successful in enforcing the eight-hour day for women and girls. With respect to control of tenement-house manufacture, several defects at once became manifest. The manufacture of gloves, caps, gaiters, and neckwear was omitted from the list of articles enumerated in section 1, although they were made in sweatshops differing in no way from those the act attempted to regulate.<sup>2</sup> A much more serious omission than this, however, was the failure to include the manufacture of bread and other foodstuffs, which were manufactured in sweatshops that were as filthy and verminous as any of the garment shops.<sup>3</sup> Inasmuch as the law permitted the manufacture of garments in kitchens or bedrooms provided no persons other than immediate members of the family were employed therein, abolition of tenement-house manufacture could not be accomplished, and the public health and welfare of the workers were still endangered. Furthermore, the law did not hold the manufacturer or wholesaler responsible for the conditions under which his garments were manufactured. All that was required of the manufacturer was that he keep a complete list of all shops in his employ, and produce it for inspection upon demand

<sup>1</sup> It will be noted that Hull-House became the center of enforcement of the law just as it had been a leader in securing its enactment. Both Mrs. Kelley and her assistant, Mrs. Stevens, lived at Hull-House, and the office was on Polk Street directly opposite. One of the most vigorous deputies was the president of the Jane Club, and one of the men residents acted as prosecutor in cases brought against violators of the law (Jane Addams, *op. cit.*, p. 207).

<sup>2</sup> "This omission . . . seems to have been unintentional on the part of the framers of the present statute" (Factory Inspectors of Illinois, *Third Annual Report* [1895], p. 50).

<sup>3</sup> In 1911, an act was passed requiring all places used for the manufacture of foodstuffs to be properly and adequately lighted, drained, plumbed, and ventilated, and to be conducted with strict regard to the influence of such conditions upon the health of the persons employed and the purity and wholesomeness of food produced therein (*Laws of 1911*, p. 528). A somewhat similar law relating to the manufacture of butterine and ice cream had been enacted in 1907 (*Laws of 1907*, p. 309).

by an inspector. The contractor was made to bear the brunt of the attempt to regulate tenement-house manufacture, although he did not own the goods or the completed garments, and did not profit by the system to nearly the same degree as did the manufacturer. So far as regulation of tenement-house manufacture was concerned, the law broke down most conspicuously in its attempt to control the contractor. No contractor ever voluntarily registered with the board of health as required by section 1 of the act. This was also true of the home-finishers.<sup>1</sup> The law provided no penalty for failure to obey an order issued in accordance with its provisions, and in consequence, it was seldom that a sweater would obey any order issued under the act.<sup>2</sup> Moreover, the appropriation granted for the inspection service was wholly inadequate. The factories and workshops should have been inspected as often as was necessary for effective enforcement of the act, but the small force of inspectors authorized could not possibly have done this. The division of power between the local boards of health and the state factory inspectors hampered the enforcement of the act and caused a great waste of time and effort.<sup>3</sup> Under the 1893 law, however, the evils of the sweating system could not have been totally eliminated no matter how large the inspection force. No legislative measure short of absolute prohibition of tenement-house manufacture, together with vigorous enforcement, could have eliminated the home shops. Such a measure as this, however, would have run counter to two widely held beliefs. In this connection we can do no better than quote a statement by Mrs. Florence Kelley:

The present basis of legislation upon tenement house manufacture is a false one, bulwarked by two delusions. One of these delusions is formulated in the time-worn phrase, "every man's house is his castle," interpreted to give to the dweller in the tenement house the right to turn his living-rooms into a shop, to the serious injury of his employees and the jeopardy of the public health. The other delusion is the belief that the

<sup>1</sup> Factory Inspectors of Illinois, *Third Annual Report* (1895), p. 51.

<sup>2</sup> *Ibid.*, p. 41.

<sup>3</sup> Illinois Department of Factory Inspection, *Twentieth Annual Report* (1913), p. 42.

widowed mother can support her orphan brood by finishing garments in her home. No widow can do this. She who attempts it must not only work in this way to the ruin of her home life, but also receive charity from public or private sources. . . . It is incredible what power these two delusions have for prolonging the life of the system. They have always to be met before a reasonable hearing can be obtained for the assurance that the only way to deal effectively with tenement house manufacture is to abolish it.<sup>1</sup>

In spite of the fact that the factory inspectors have repeatedly called attention to the inadequacy of the sweatshop act for controlling tenement-house manufacture, and have submitted drafts of bills designed to strengthen the law, no legislation has been secured. Drafts of bills were submitted to the legislature in 1903, 1905, and again in 1907. The latter bill was drafted by Chief Factory Inspector Davies as a result of investigations which the factory inspectors made during an epidemic of scarlet fever which raged among the home-finishing shops of Chicago. The conditions existing during this epidemic clearly demonstrated the total inadequacy of the sweatshop law. The proposed bill provided for dual supervision and inspection by the local health authorities and the State Department of Factory Inspection. It was to apply to all workshops where clothing or similar articles were manufactured, altered, repaired, or finished, except in separate rooms of a private house or for use of a private family. All sweatshops were to be licensed by the state factory inspector, and licenses were to be revoked and the shops closed where disease or unsanitary conditions were found to exist. Sale of goods manufactured in unclean or diseased quarters was to be prohibited, and such goods might be destroyed if the public health required it. Transportation of goods into this state was to be forbidden when they were manufactured under unwholesome conditions. The words "tenement-made" were to be marked on goods manufactured contrary to the provisions of the act, and upon goods made in eating and sleeping-rooms in ordinary sweatshops. Manufacturers were to be responsible for complete compliance with the law.<sup>2</sup>

<sup>1</sup> Factory Inspectors of Illinois, *Fourth Annual Report* (1896), p. 50.

<sup>2</sup> Factory Inspectors of Illinois, *Fifteenth Annual Report* (1907), pp. 42-49.



With the exception of its limited application to homeshops, the sweatshop law proved to be ineffective from the time it was passed. After the passage of the Health, Safety, and Comfort Act in 1909, however, the factory inspectors, by construing "homeshops" as "workshops," were able to regulate sanitary conditions to some extent and to forbid manufacturing of any kind in homes not complying with its provisions.<sup>1</sup>

#### DEVELOPMENT OF ADMINISTRATION OF ILLINOIS FACTORY LAWS

By virtue of a law passed in 1877, Massachusetts became the first among the states to provide for the inspection of factories. She was followed in 1883 by New Jersey and Wisconsin, and thereafter the movement spread rapidly—additional states fell in line nearly every year, Illinois, in 1893, being the fourteenth. This Illinois act, which, it will be recalled, endeavored to regulate the sweating system and the employment of women and children, authorized the appointment of a factory inspector, an assistant factory inspector, and ten deputy factory inspectors, whose duty it was to enforce the provisions of the act and to prosecute all violations. The law of 1893 did not create a comprehensive inspection service since the duties of the inspectors merely embraced enforcement of this one law.

In 1897, three laws were enacted which considerably extended the duties of the inspectors. As already noted, the fire-escape law of that year was entrusted to them for enforcement, but in 1899 this duty was withdrawn and placed in the hands of local authorities instead. The other acts were the so-called Blower Law and the Child-Labor Law which extended the restrictions upon child labor to additional occupations.

In 1903, that section of the act of 1893 which authorized the appointment of factory inspectors was amended by increasing the number of deputy inspectors to eighteen, of whom seven were to be women, increasing the salaries of all inspectors, and authorizing the state factory inspector to divide the state into fifteen inspection districts and to place a deputy factory inspector in charge of each.<sup>2</sup>

<sup>1</sup> Illinois Department of Factory Inspection, *Twentieth Annual Report* (1913), p. 42.

<sup>2</sup> *Laws of 1903*, p. 193.



All of these additions to the duties and powers of the factory inspectors were extensions of section 9 of the act of 1893. The title of the act, however, remained unchanged. This fact caused some apprehension concerning the constitutionality of the whole act. In order to obviate this danger, as well as to meet the obvious need for an augmented and reorganized inspection service, State Factory Inspector Davies drafted and secured the passage in 1907 of a bill creating a State Department of Factory Inspection.<sup>1</sup> The new department was to be known as the Illinois Department of Factory Inspection, and was placed in the hands of a chief state factory inspector, who was to secure the enforcement of all laws relating to the inspection of factories, mercantile establishments, mills, workshops, and commercial institutions in the state, and to perform such other duties as might later be prescribed by law. He was to be appointed for a term of four years at a salary of \$3,000 per year. The salary of the assistant chief factory inspector was raised from \$1,250 to \$1,500 per year. The number of deputy factory inspectors was increased to twenty-five, and their salaries from \$1,000 to \$1,200 per year. The act also authorized the appointment of an attorney for the department at a salary of \$1,500 per year. The duties of the inspectors were much the same as before. They were to visit and inspect at all reasonable hours and as often as practicable the factories, mercantile establishments, mills, workshops, and commercial institutions in the state where goods, wares, or merchandise were manufactured, stored, purchased, or sold, at wholesale or retail. The chief state factory inspector was to make an annual written report to the governor giving the results of his inspections and investigations, together with such other information and recommendations as he might deem proper. When ordered to do so by the governor, the inspectors were to make special investigations into conditions of labor in the state, or into any alleged abuses in connection therewith, and report the results of the same. They were to enforce the provisions of the act and prosecute all violations, being aided in this by the state's attorneys in the various counties, and by the attorney for the department. It was again made the duty of the chief state factory inspector to divide the

<sup>1</sup> *Laws of 1907*, p. 310.

state into inspection districts, giving due regard to the number of factories and the amount of work to be performed in each district. Section 9 of the act of 1893, as amended by the act of 1903, was repealed.

In 1907, two laws were added to those already enforced by the Department of Factory Inspection. These were the Building Construction Act and an act regulating the manufacture of butterine and ice cream. In 1909, two more were added, namely, the Women's Ten-Hour Law, and the Health, Safety, and Comfort Act. In 1911, the Occupational Disease Law was added to the list, the staff of deputy inspectors increased to thirty, and the appointment of a physician authorized.<sup>1</sup> The Washhouse Law was added to the list in 1913, and the Basement Law in 1915.

When the legislature passed the Civil Administrative Code in 1917, the Department of Factory Inspection was abolished, but was re-created as the Division of Factory Inspection of the Illinois Department of Labor. This is its present status.

In order to avoid duplication of inspection, the Division of Factory Inspection, beginning with 1917, ceased making inspections under the Butterine and Ice-Cream Law, since the Division of Foods and Dairies of the Illinois Department of Agriculture was enforcing a comprehensive law covering the same field.<sup>2</sup>

In 1919, a law<sup>3</sup> regulating the manufacture and sale of bedding was given to the factory inspectors for enforcement. This made a total of ten laws enforced by the Division of Factory Inspection, namely, the Sweatshop Law, the Child Labor Law, the Blower Law, the Building Construction Act, the Women's Ten-Hour Law, the Health, Safety, and Comfort Act, the Occupational Disease Act, the Washhouse Law, the Basement Law, and the Bedding Law.

In 1923, the number of deputy inspectors was increased to thirty-five, and their salaries made to depend upon the length of time they had served. The salary for the first year of service was

<sup>1</sup> *Laws of 1911*, p. 326.

<sup>2</sup> Illinois, *First Administrative Report of the Directors of Departments* (1918), p. 115.

<sup>3</sup> *Laws of 1919*, p. 236.

fixed at \$1,800; thereafter, \$100 was to be added for each year of service until a maximum annual salary of \$3,000 was reached.

Throughout its history, the factory inspection service has been badly handicapped by lack of sufficient funds for carrying on the work of inspection and an entirely too small force of inspectors. The Illinois force of 35 inspectors seems small indeed when compared with the New York force of 214.<sup>1</sup> A further difficulty in Illinois during most of this period has been the fact that appointments have been made on the basis of political complexion of the applicant rather than on the basis of ability to inspect factories.

The attitude of the courts, however, has had an important effect in discouraging thorough enforcement of the factory laws. In the winter of 1926-27, many moving-picture houses in Chicago persistently and flagrantly violated the Child-Labor Law, but when the deputy inspectors haled the managers into court, the judges either curtly dismissed the cases or assessed the nominal fine of \$5.00 and costs, which was a matter of no consequence to the theater owners. This situation also obtained with respect to the other factory laws. Under such conditions, the factory inspectors can hardly be censured for becoming disgusted and indifferent.

To get down to brass tacks, the factory inspection laws of Illinois . . . are being enforced on a bluff in that a vast majority of the employers are unaware that the courts are treating these laws in a contemptuous manner. The deputy factory inspectors are forced to fall back on their own resources and bluff their way through in order to obtain compliance, even though some of these laws, particularly the child labor act, have plenty of teeth. . . . A very little publicity through the Chicago daily newspapers would cure this evil situation, but not one of the dailies pays the slightest attention to the many prosecutions

for violation of the factory inspection laws. Theater owners are heavy advertisers, and this probably accounts for the failure of the newspapers to publish these facts.<sup>2</sup>

<sup>1</sup> On January 1, 1926, New York had 214 factory inspectors (Commons and Andrews, *Principles of Labor Legislation* [1927], p. 496).

<sup>2</sup> Illinois State Federation of Labor, *Weekly News Letter*, May 21, 1927.



## CHAPTER XI

### OCCUPATIONAL DISEASES

#### THE COMMISSION ON OCCUPATIONAL DISEASES

Upon recommendation by the Industrial Insurance Commission of 1906, the General Assembly of 1907 passed a joint resolution, drafted by Chief State Factory Inspector Davies, creating a commission of nine members appointed by the governor to investigate the problem of occupational diseases in Illinois. This Commission was to submit to the next General Assembly drafts of such bills as were needed to correct the situation disclosed by its investigation.<sup>1</sup>

#### PRELIMINARY REPORT

In its preliminary report of April, 1909, the Commission stated that the problem of occupational disease was so large and complex as to require at least two years' additional study, and urged the General Assembly to appropriate the sum of \$15,000 to defray the costs of this investigation. It stated that specialists in bacteriology, chemistry, and pathology should be employed to investigate the effects of industrial processes upon the health of workmen and that the laws and regulations of European countries should be carefully

<sup>1</sup>The Commission was to be composed of the state factory inspector, the secretary of the Bureau of Labor Statistics, the president and secretary of the State Board of Health, two reputable physicians, and three other representative citizens of the state. The members of the commission first appointed by the governor were: George W. Webster, M.D., president Illinois State Board of Health; Charles Richmond Henderson, of the University of Chicago; Edgar T. Davies, chief state factory inspector; Ludvig Hektoen, M.D., of the Memorial Institute for Infectious Diseases; Arnold C. Klebs, M.D., director Chicago Tuberculosis Institute; James Simpson, vice-president Marshall Field & Company; James A. Eagan, M.D., secretary Illinois State Board of Health; David Ross, secretary Bureau of Labor Statistics, and Alice Hamilton, M.D., of the Memorial Institute for Infectious Diseases. Dr. Klebs resigned because of residence abroad, and Dr. Hamilton resigned in order that she might qualify as medical investigator. The governor appointed Dr. Walter S. Haines and Dr. W. H. Allport in their stead.



studied in order that Illinois might profit by the experience of nations whose industries were older and had been the object of scientific research for a much longer time.<sup>1</sup> The 1909 General Assembly granted a two years' extension of time and made the necessary appropriation.<sup>2</sup>

#### FINAL REPORT

The Commission discovered, however, that it had at its disposal neither the time nor the means to attempt a comprehensive study of the whole field of industrial hygiene. In the main, therefore, its investigation was confined to the industrial use of poisons and their effects upon the health of the workers.<sup>3</sup> Its final report, a valuable pioneer work in the field of occupational disease, presents the facts discovered and the conclusions and recommendations of the Commission.

The most elaborate study in the report is that by Dr. Alice Hamilton on industrial lead-poisoning. She found that about twenty trades or industries in Illinois involved this danger in widely varying degrees, the most dangerous being the smelting and refining of lead, the manufacture of white lead, the painting and printing trades, and the manufacture of storage batteries. The danger was present in two forms, that of inhaling particles of the metal in the form of dust or fumes, and that of swallowing them with food or tobacco handled with soiled fingers. Although in some

<sup>1</sup> Illinois Commission on Occupational Diseases, *Report* (1909), pp. 3-7. The Commission also pointed out that with the probable rapid spread of health insurance, lodge benefits, and the like, the results of its investigation would help furnish an actuarial basis for rates.

<sup>2</sup> *Laws of 1909*, pp. 91 and 488. In making the appropriation, the employment of experts was omitted from the list of purposes for which the money might be expended, and the attorney-general was of the opinion that the money could not be lawfully used for this purpose. The attention of Governor Deneen was directed to this palpable error in the appropriation bill and in his call for a special session of the legislature he included a request that the law be amended to correct this oversight. A supplementary act was passed by this special session (1910) to permit the employment of such persons (*Laws of 1909-10*, p. 82).

<sup>3</sup> In its work, the Commission benefited greatly from the active co-operation of many institutions, business firms, and individuals.

European countries many of the worst dangers had been wholly eliminated by the use of simple precautions, such as the substitution of wet for dry processes when practicable, the use of respirators in all necessarily dusty work, the enforcement of strict rules concerning personal hygiene, and the putting of employees most susceptible to lead-poisoning on the least dangerous operations, in Illinois very little progress had been made.<sup>1</sup> Conditions had improved somewhat with the substitution of machinery for hand labor and the use of better methods of collecting dust and fumes as the demand for lead increased, but in most cases little or nothing of a positive nature had been done to protect the workmen. Some of the industries, for example, smelting and the manufacture of white lead, had gained such a bad name among workmen that the better type would scarcely enter them. As a consequence, those employed were the poorest and most ignorant foreigners and negroes.

Efforts were made to discover the prevalence of lead-poisoning, the economic consequences of the disease, and the degree to which workmen and their families were compensated for damages suffered. In the short time available it was impossible to discover the full

<sup>1</sup> The difference in the risks when there is strict regulation and when precautions are left almost entirely in the employer's hands is strikingly shown by some comparisons between conditions in England and in Illinois:

"In one English white lead factory employing 182 men careful medical inspection failed to discover one case of lead-poisoning in the year 1909-10. In an Illinois factory employing 142 men, partial inspection revealed 25 men suffering from lead-poisoning last year. In another English factory employing 90 men, no case was discovered for five successive years. In an Illinois factory employing 94 men, 28 per cent of all employees have had lead-poisoning and 40 per cent of all employed in the dustier work. The other two Illinois factories have not had medical inspection and accurate figures cannot be given. One has sent four cases of lead-poisoning to a hospital during the last month, the other three. These figures certainly do not represent even one-half of the probable number of cases, for many do not seek hospital care. Yet, even these would mean an average yearly of 36 and 48 cases, respectively. . . .

"The fundamental difference between the European and the American white lead industries lies in the dustiness of the process used in America, and the fact that the men here are not compelled to take care of themselves" (*Report*, p. 34).

extent of the disease or the physical suffering and economic loss it caused;<sup>1</sup> nevertheless, 578 cases of lead-poisoning were found, occurring during the years 1908 to 1910, of which 12 resulted in permanent disability, 8 involved temporary or partial paralysis, and 18 resulted in death.<sup>2</sup> One hundred and sixteen men reported a total loss of 65 years' working time from lead-poisoning, and 102 men reported an aggregate wage loss of \$63,940. That this burden fell upon the workmen and their families is indicated by the fact that of the 578 workmen affected, only three had received any compensation from their employers—one employee in smelters and metal shops had been paid full wages while disabled, one paint factory worker received part of his wages, and another's medical expenses were paid.

The study throws considerable light on the responsibility of the workmen and their assumption of the risks of the employment. Many of the dangerous conditions, such as the prevalence of dust and fumes, were absolutely beyond the workers' control; either they had to remain out of the occupation altogether or accept such dangers as were left unsafeguarded by the employer. How far these workmen were responsible for their disregard of precautions and how far they deliberately assumed the risks of their employment are shown by the following quotation:

For instance, a young Bulgarian went to work in a white lead factory the first week he arrived in Chicago, and was put to emptying pans of dry white lead. He was given no respirator and had no idea that he had a right to ask for one. Nobody told him the white dust on his hands and mustache was poisonous. He had only one suit of clothes and wore his working clothes home. He had a severe attack of lead-poisoning at the end of five weeks. Another foreigner, a Russian Jew, was set to making red lead paste in a storage battery factory. He was utterly ignorant of the substances he was handling and used to moisten his fingers in his mouth as he made the

<sup>1</sup> The labor turnover in the more dangerous industries was very high and it was very difficult to trace cases of the disease.

<sup>2</sup> Very few deaths from lead-poisoning were found because physicians usually made out the death certificate for some one of the consequences of lead-poisoning, such as nephritis, gastroenteritis, etc., instead of lead-poisoning itself.



paste. He became severely poisoned after ten days' work. We have found almost no effort in the lead works to instruct the foreigners in the care of their persons and in the avoidance of danger.<sup>1</sup>

Another illustration is afforded by the mechanical artists and retouchers. This was highly skilled work employing in Chicago about 520 persons who were of an educated and intelligent class. Most of the artists believed they were using white-zinc paint, and said that their employers and foremen had assured them of this. Nevertheless, all of them found the work very unhealthful and many could stand it only a few years. Analysis showed that seven out of eleven paints used contained white lead, and only four establishments were found in which at least one variety of white-lead paint was not used.<sup>2</sup>

Dr. E. R. Hayhurst made a study of brass-working in Chicago and of zinc-smelting in LaSalle County. There were fewer workers in this industry than in the lead-employing industries, and although the risks seemed less and the toxic effects, when incurred, appeared less harmful, the work was very generally recognized as unhealthful. Persons exposed to zinc fumes are likely to contract a disease known as brass founders' ague—the brass workers' danger coming principally from zinc, which is one of the important constituents of all brass compounds. Of 187 workmen questioned, 146 complained of trade disease. The study as a whole showed a considerable risk to health in these industries, due for the most part to poor ventilation in the foundries and to other unhygienic conditions which might easily have been remedied.

The investigation of carbon-monoxide poisoning was practically confined to five large steel plants in South Chicago and Joliet. Drs. Matthew Karasek and George L. Apfelbach, under the direction of Dr. Walter S. Haines, attempted to determine the effect of frequent or constant exposure to comparatively small amounts of the gas, the peculiar intoxication produced by exposure to larger quantities being already well known. A careful examination was made of 240 workers, but although a great majority of them were under par physically it was extremely difficult to decide how much of

<sup>1</sup> *Report* (1911), p. 24.

<sup>2</sup> *Ibid.*, pp. 38–39.



this was due to carbon monoxide and how much to other factors, such as unhygienic living, alcoholic excesses,<sup>1</sup> etc. Although the results were in general inconclusive, one constant and striking feature presented itself, namely, a deficient muscular power, as indicated by the hand dynamometer, of those exposed to carbon monoxide. The sluggish mentality observed among the steel-workers was attributed in part to frequent exposure to the gas. Further investigation of this nature was strongly recommended. During the years preceding the investigation, the Illinois Steel Company had effected a marked decrease in gas-poisoning, and the burns and falls attendant upon it, by the introduction of safer furnaces and methods of conveying gas, by the practice of keeping employees out of dangerous places as much as possible, by the use of oxygen helmets for those obliged to work in the most hazardous places, and by the education of employees concerning the dangers by oral or printed instructions. The Commission recommended a more extensive use of these precautions.<sup>2</sup>

Mr. R. H. Nicholl and Drs. T. E. Flinn and E. R. Hayhurst investigated the effects of turpentine upon the health of workmen. It was found that the principal factor in the deleterious effect of turpentine vapor was the workman's exposure to it in poorly ventilated rooms. It was also found that various substitutes for turpentine, inferior grades of turpentine, rapid dryers, varnish solvents, and varnish removers were undoubtedly more harmful than pure turpentine. Better ventilation and inspection of ingredients were recommended as obvious preventives.<sup>3</sup>

In a report on caisson, or compressed-air disease, Dr. Peter Bassoe gave a résumé of the most important studies of the subject, together with the results of a personal investigation of 167 men who had suffered one or more attacks of the disease. The preventive measures were threefold: (1) a careful selection of workers should be made, for some are more susceptible than others; (2) the time spent in the caisson should be inversely proportional to the

<sup>1</sup> Nearly all the men examined used alcoholic liquors, and 70 per cent admitted using them in excessive quantities.

<sup>2</sup> *Report* (1911), pp. 88-96.

<sup>3</sup> *Ibid.*, pp. 84-88.

pressure under which the work is carried on, and (3) the passage from the compressed air to the natural air should be gradual, the men on leaving the caisson being kept in a lock in which the air pressure is gradually reduced until they may pass out with safety. The study closed with some suggestions for desirable legislation on the subject and the text of the laws regulating compressed-air work in New York, Holland, and France.<sup>1</sup>

Drs. Shambaugh and Boot made a study of occupational deafness, showing that danger of this trouble existed in numerous lines of work where its presence was not generally suspected.<sup>2</sup>

Drs. Lane and Ellis examined 500 Illinois miners in a search for miners' nystagmus without finding a single case. They concluded that increased use of machinery and changes in methods of mining were making this rare disease still rarer.<sup>3</sup>

Dr. and Mrs. Matthew Karasek made a preliminary report on poisons used in photography, photo-engraving, silvering mirrors, and etching glass, and in their very brief outline indicated, in addition to what might possibly be unavoidable dangers, some wholly needless risks to which the workers were exposed. For instance, among photo-engravers, who used the most deadly poisons freely, they found that very commonly there were "no posters, instructions, or warnings to employees regarding poisonous and dangerous chemicals; neither were labels present on any of the bottles containing potassium cyanide or other chemicals used in the rooms."<sup>4</sup>

#### RECOMMENDATIONS OF THE COMMISSION

Since remedial legislation was the end in view the Commission endeavored to set forth principles which should be observed if legislation was to be really effective in preventing occupational diseases. Four features were deemed to be especially desirable: (1) healthful workplaces should be assured by requiring adequate ventilation, cleanliness, freedom from overcrowding, proper temperature and humidity, drainage, sanitary conveniences, etc.; (2) special protection should be provided for children, youths, and

<sup>1</sup> *Ibid.*, pp. 99-149.

<sup>3</sup> *Ibid.*, p. 155.

<sup>2</sup> *Ibid.*, pp. 150-54.

<sup>4</sup> *Ibid.*, p. 98.

women, on account of their greater susceptibility to disease; (3) special regulations should govern certain industries recognized as especially dangerous and unhealthy; (4) effective administration of the law should be provided.

A bill containing desirable provisions under these four heads was drafted by Mr. Albert J. Norton, of the Chicago bar, for the information of the legislature. The method and the form pursued in offering these suggestions followed the British Factory and Workshop Act of 1901: in many places the language of the British act was followed verbatim, but always with careful attention to the legal and economic situation existing in Illinois. The desirability of a genuine labor code and an efficient administrative system was recognized, and the bill was offered as a contribution to the development of a large public policy which should go forward with steady experiment and criticism toward this goal.

Another bill offered as a "suggestion" for a law was designed to protect workers exposed to the dangers of caisson disease.<sup>1</sup>

The commission recommended that the study of occupational diseases in Illinois be continued for two years longer and that not less than \$30,000 be appropriated for this purpose. While the investigation had been carried as far as possible in the nine months following the passage of the act permitting the employment of experts, it covered only a small part of the field. Further study was needed: (1) for the benefit of the public health; (2) to acquaint the medical profession with the industrial causes of many diseases whose symptoms were being ineffectually treated because of ignorance of their cause; (3) to enable the employers to reduce the hazards in their plants and thereby profit by the better health of their workmen and a smaller labor turnover; (4) to discover means of diminishing the burden on society resulting from diseased and disabled workmen; (5) for the welfare of the workers and their families for whom the question was literally one of life or death.<sup>2</sup>

<sup>1</sup> *Report* (1911), p. 162. Bills dealing with this subject have been introduced into the General Assembly, but none has been enacted into law.

<sup>2</sup> It was recognized that an essential part of a scheme of protection of the working classes was social insurance legislation which would work automatically to



The Commission did, however, recommend one bill for immediate passage. It was drafted by Mr. Samuel A. Harper and was less wide in scope than the Norton bill mentioned above. In his message to the 1911 General Assembly, Governor Deneen urged that this bill be enacted in order to make uniform throughout the state the Commission's practical recommendations which had already been adopted with encouraging results in some establishments.<sup>1</sup> Pursuant to the governor's recommendation, the General Assembly passed, without a dissenting vote, a bill identical with the one submitted by the Commission.

#### OCCUPATIONAL DISEASES LAW OF 1911

This law<sup>2</sup> provides that every employer of labor in Illinois engaged in any industry which may produce any illness or disease peculiar to the industry and to which employees in other industries are not ordinarily exposed shall take reasonable and approved measures for the protection of employees from such illness or disease (sec. 1).

Section 2 is more definite. It provides that "every employer in this state engaged in the carrying on of any process of manufacture or labor in which sugar of lead, white lead, lead chromate, litharge, red lead, arsenate of lead, or paris green are employed, used, or handled, or the manufacture of brass or the smelting of lead or zinc," or "any process of manufacture or labor in which poisonous chemicals, minerals, or other substances are used or handled by the employees therein in harmful quantities or under harmful conditions," shall provide proper working clothing which shall be worn by the employees while at work; and in employments

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prevent both accidents and diseases, but it was stated that the organization for such a system and the laws necessary for its basis should be studied by a special commission.

<sup>1</sup> *House Journal*, 1911, p. 39. The governor also urged that the Commission be continued two years longer and that it be supplied with sufficient funds. Senator Jones introduced a resolution (S.J.R. No. 22) containing these recommendations, but no further action was taken by the General Assembly and the work of investigation had to be dropped.

<sup>2</sup> *Laws of 1911*, p. 330.



necessarily productive of noxious or poisonous dusts, shall provide respirators for the use of the employees.

Every employer within the scope of section 2 is to have those of his employees who come into direct contact with the poisonous agencies or injurious processes referred to in that section examined every month for the purpose of ascertaining if any occupational disease exists among them. The physician making the examination is required to report immediately to the State Board of Health the conditions found regardless of whether or not such diseases were found to exist among the employees. If any such disease is found, the report is to state the name, address, sex, age, and last place of employment of the employee and the name of the employer, the nature of the disease or illness, and the probable extent and duration thereof. The State Board of Health is required to transmit immediately to the Illinois Department of Factory Inspection a copy of any report made by any physician (secs. 3, 4, 5).

The employers referred to in section 2 must maintain dressing-rooms and washrooms equipped with adequate washing facilities. Employees are not allowed to eat in the workrooms, but employers are required to furnish places outside the workrooms to be used for this purpose (secs. 6, 7).

The employer is to provide adequate devices for carrying off poisonous fumes and dust, and no sweeping of the workrooms is allowed during working hours unless the floors are dampened to prevent the raising of dust. The floors must be scrubbed at least once every working day. In cleaning flues, precautions are to be taken to prevent the raising of dust and fouling the air in which the employees are obliged to work. Hoppers, chutes, and all conveyances or receptacles must be properly covered or dampened (secs. 8, 9, 10). The employer is required to post in the workrooms appropriate notices of dangers to the health of the employees and simple instructions as to methods of avoiding them (sec. 13).

The State Department of Factory Inspection is charged with the enforcement of the act, and is empowered to inspect all places of employment covered and give proper notice to employers violating it. It is the duty of the Department to direct the installation of

any approved device or method reasonably necessary, in its judgment, to protect the health of the employees (secs. 11, 12).

Any person, firm, or corporation who violates any of the provisions of the act or who fails to comply with any of its requirements, or who obstructs or interferes with any examination or investigation being made by the State Department of Factory Inspection in accordance with the provisions of the act, or any employee who violates any of its provisions, is subject to a fine of not less than \$10 nor more than \$100 for the first offense, and a fine of not less than \$50 nor more than \$200 for a second or subsequent offense (sec. 14).

For any injury to the health of any employee proximately caused by any wilful violation of the act or wilful failure to comply with any of its provisions, a right of action accrued to the party whose health was injured for any direct damages sustained thereby. In case of death of the employee through such wilful violation or failure, a right of action accrued to the widow or any other dependents of the deceased person. Damages were not to exceed the sum of \$10,000, and action for damages had to be commenced within one year after the death of such employee (sec. 15).

#### OCCUPATIONAL DISEASES MADE COMPENSABLE

In 1921, when occupational diseases contracted in occupations covered by section 2 were made compensable as accidents according to the terms of the Workmen's Compensation Act, all common law and statutory rights to recover damages were abrogated except the right to compensation under the Workmen's Compensation Act. After this amendment was declared unconstitutional by the Illinois Supreme Court because of the failure of the legislature to comply with the technical procedure prescribed for amending statutes, another amendment was passed in 1923 correcting the defect in the 1921 amendment and making occupational diseases compensable in the same manner as an accidental injury under the Workmen's Compensation Act. Under the 1923 act, however, an action might be maintained by an employee for damages occasioned by a wilful violation of the Occupational Diseases Act.

## CHAPTER XII

### MINING LEGISLATION

#### INTRODUCTION

The coal deposits of Illinois constitute by far the most valuable mineral resource within the state. As calculated by the Illinois State Geological Survey, the coal reserves of the state approximate 200 billion tons,<sup>1</sup> a supply sufficient to meet the entire nation's needs for almost two hundred years at the present rate of consumption, allowing for only 50 per cent recovery of coal. There are five workable seams of commercial importance. The area underlain by coal embraces approximately 36,800 square miles, or 65 per cent of the area of the state.

The first discovery of coal in the United States by Europeans was made by Joliet and Marquette in 1673. Joliet's map of 1674 shows the location of "charbon de terre" (coal) near the present city of Utica, Illinois.<sup>2</sup> Until early in the nineteenth century, however, Illinois coal was mined almost exclusively for local use. In the decade of the thirties a small amount was mined for shipment, some 6,000 tons being the total amount mined in 1833. Extensive operations began in the fifties, and in 1860, 73 mines produced a total of 728,400 tons. In 1861, the General Assembly passed a law to encourage mining in Illinois,<sup>3</sup> and this law together with the extension of railroads and the use of coal in locomotives and in manufacturing establishments gave great impetus to the industry. The

<sup>1</sup> Illinois Coal Mining Investigations, Co-operative Agreement, *Preliminary Report on Organization and Method of Investigations* (1913), p. 25.

<sup>2</sup> Illinois Coal Mining Investigations, Co-operative Agreement, *Coal Mining in Illinois* (1915), by S. O. Andros, p. 10.

<sup>3</sup> *Laws of 1861*, p. 146. This law granted landowners the right to sell or lease the right to mine coal or other minerals on their land. Sale for taxes of land thus leased was not to operate to transfer or otherwise affect such a contract entered into under the law.

number of mines and the amount of coal produced increased rapidly, and in 1870, 322 mines produced 2,624,163 tons. The growth of the coal-mining industry from 1833 to the present is shown in Table IX.

Illinois now ranks third among the states in quantity and value of coal produced. She reached the rank of second in the eighties, being surpassed only by Pennsylvania; but since about 1910 she has been surpassed by West Virginia as well.

The predominant position of coal-mining among the various mineral industries of the state is shown by Table X.

Coal-mining is an industry which as much as any other requires protective legislation for the workers. The dangers to be guarded against are of two kinds: those having to do with the health and personal safety of mine employees and those concerned with protection of their earnings. The following considerations will make clear why such legislation is needed.<sup>1</sup> In the first place, cutthroat competition in the industry and, in particular, unfair methods of competition by some operators have tended to make general the practices of those operators who provide the worst working conditions and who are least scrupulous in their pecuniary dealings with their employees. In the past, the better class of operators have complained of the frequently used device of cutting prices below the cost of production while making up the deficit out of profits from the company store.<sup>2</sup> Other devices having the same effect were incorrect weighing of coal mined and excessive dockage for dirty coal, both of which reduced the miners' earnings while enhancing the operators' gross return. In the absence of such practices as these, one might reasonably expect competition by the better class of operators to drive the inefficient from the industry, but in practice the handicap was apparently too great for this to occur. Movement of coal-miners out of the industry or to mines where conditions were best does not seem to have taken place to an appreciable degree. Illinois conditions have been made worse by competition

<sup>1</sup> Incidentally, they will help explain why it has not been carried farther.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Third Biennial Report* (1884), p. 498.



TABLE IX

NUMBER OF MINES, NUMBER OF MINE EMPLOYEES  
AND QUANTITY OF COAL PRODUCED BY THE  
ILLINOIS COAL MINING INDUSTRY,  
1833 TO 1927

Year	Mines	Employees	Output (Thousands of Short Tons)
1833.....	*	*	†6
1834.....			8
1835.....			8
1836.....			10
1837.....			13
1838.....			14
1839.....			15
1840.....			17
1841.....			35
1842.....			58
1843.....			75
1844.....			120
1845.....			150
1846.....			165
1847.....			180
1848.....			200
1849.....			260
1850.....			300
1851.....			320
1852.....			340
1853.....			375
1854.....			385
1855.....			400
1856.....			410
1857.....			450
1858.....			490
1859.....			530
1860.....			728
1861.....			670
1862.....			780
1863.....			890
1864.....			1,000
1865.....			1,260
1866.....			1,580
1867.....			1,800

\* No data available until 1882. Beginning with 1882, the data are taken from the *Annual Coal Report* issued by the Illinois Bureau of Labor Statistics.

† From 1833 to 1910 the data are for calendar years and are taken from United States Geological Survey, *Mineral Resources of the United States*, Part II (1910), p. 121. From 1911 to 1924 the data are for years ending June 30 and are taken from the *Annual Coal Report* issued by the Illinois Bureau of Labor Statistics.

TABLE IX—*Continued*

Year	Mines	Employees	Output (Thousands of Short Tons)
1868			2,000
1869			1,854
1870			2,624
1871			3,000
1872			3,360
1873			3,920
1874			4,203
1875			4,453
1876			5,000
1877			5,350
1878			5,700
1879			5,000
1880			6,115
1881			6,720
1882	704	20,290	9,116
1883	639	23,939	12,123
1884	741	25,575	12,208
1885	778	25,446	12,834
1886	787	25,846	11,175
1887	808	26,804	12,423
1888	822	29,410	14,328
1889	854	30,076	12,104
1890	936	28,574	15,292
1891	918	32,951	15,661
1892	839	33,632	17,862
1893	788	35,390	19,950
1894	836	38,477	17,114
1895	847	38,630	17,736
1896	901	37,032	19,787
1897	853	33,788	20,073
1898	881	35,026	18,599
1899	889	36,991	24,439
1900	920	39,384	25,768
1901	915	44,143	27,332
1902	915	46,005	32,939
1903	933	49,814	36,957
1904	932	54,774	36,475
1905	990	59,230	38,434
1906	1,018	62,283	41,480
1907	933	66,714	51,317
1908	922	70,841	47,660
1909	886	72,733	50,905
1910	881	74,634	45,900
1911	845	77,410	50,165
1912	879	79,411	57,514
1913	840	79,497	60,846
1914	796	80,035	60,716
1915	779	75,607	57,602

TABLE IX—*Continued*

Year	Mines	Employees	Output (Thousands of Short Tons)
1916 .....	803	75,919	63,674
1917 .....	810	80,893	78,984
1918 .....	967	91,372	89,979
1919 .....	937	90,897	75,100
1920 .....	938	88,192	73,921
1921 .....	1,035	95,763	80,122
1922 .....	1,133	98,090	63,277
1923 .....	1,136	103,576	75,514
1924 .....	1,032	99,765	72,309
1925† .....	913	76,697	103,186
1926§ .....	921	77,732	69,813
1927 .....	906	78,872	46,950

† For period July 1, 1924 to December 31, 1925.

§ Reports for 1926 and 1927 are for the calendar year.

with better quality coal from the non-union mines of West Virginia. Enforcement of standards by the state is thus of prime importance.

TABLE X

MINERAL INDUSTRIES OF ILLINOIS, RANKED BY VALUE OF PRODUCTS, 1919  
(From Fourteenth Census of the United States)

INDUSTRY	NUMBER OF ENTER- PRISES	WAGE EARNERS		VALUE OF PRODUCTS	
		Average Number	Per Cent Distribu- tion	Amount	Per Cent Distribu- tion
All industries .....	772	79,123	100.0	\$178,673,065	100.0
Coal, bituminous .....	447	73,780	93.2	138,767,835	77.7
Petroleum and natural gas .....	236	2,752	3.5	31,263,563	17.5
Limestone .....	41	1,244	1.6	3,776,626	2.1
Sandstone .....	15	288	0.4	1,329,389	0.7
Lead and zinc .....	6	239	0.3	621,296	0.3
Clay .....	10	154	0.2	472,284	0.3
Abrasive materials .....	5	21	*	45,205	*
All other industries† ..	12	645	0.8	2,396,867	1.3

\* Less than one-tenth of 1 per cent.

† Includes enterprises in industries as follows: Fluorspar, 11; pyrite, 1.

More important than these considerations, however, is the fact that coal-mining is an inherently hazardous occupation. Except for

a few strip mines of little importance, coal-mining in Illinois is carried on for the most part several hundred feet below the surface of the earth. This fact, of course, carries with it peculiar dangers. In the first place, the men must be hoisted and lowered into the mines. Great care must be exercised in the construction and operation of hoisting machinery. In case of accident to the hoisting machinery, or emergencies of any kind, means of egress to the surface must be provided. Work within the mines can be carried on only by the use of artificial light, and in any case semi-darkness prevails. Oils used for purposes of illumination must burn with sufficient brightness, but at the same time must not produce unduly obnoxious or dangerous fumes. Miners work alone or in pairs in their own rooms at the face of the coal. They are isolated to a large degree, and their work is for the most part unsupervised. They are continually in danger of being crushed under falling rock and coal, and must see to it that the roof is well supported by props. Blasting powder or other explosives are used in most of the mines in Illinois for the purpose of breaking down the coal. Great care must be used in the preparation and firing of shots. Other dangers, however, attend the use of explosives. Most of the coal mines of Illinois, especially in the southern part of the state, generate explosive gases in dangerous quantities, and this gas is likely to explode at any time with disastrous effects upon life and property. Furthermore, the southern mines especially are constantly endangered by the presence of coal dust, which, when suspended in the mine air or mixed with mine gases in proper proportions may explode with the most far-reaching and dreadful results. Mines are sometimes in danger of being flooded by the inflow of underground or surface water, and, in one instance at least, the entire population of an Illinois mine, some sixty-nine men, lost their lives in this way by drowning. In order that men may work underground in coal mines it is necessary that elaborate ventilating apparatus be provided: the stale, poisonous air resulting from the presence of powder fumes and mine gases and depletion of the oxygen supply by men and animals must be carried away and replaced by fresh air from without. In the early days of mining, underground furnaces were used



for this purpose, when ventilation was supplied at all, and their use greatly increased the fire hazard. After the miner loads his coal onto the cars, it must be drawn along the dark, narrow passageways which lead from the workplaces to the hoisting shaft. A large percentage of mine accidents occur in the course of this process. Men use these passageways in going to and from their workplaces and are in danger of being run down by the cars. The work of operating the cars is likewise dangerous. Many mines are now equipped with electricity and men are sometimes electrocuted when they or the tools they carry come into contact with uninsulated wires. This is only one of many instances in which miners need protection from their own carelessness. The constant presence of danger tends to make them reckless. One of the worst mine disasters in modern times, that at Cherry, Illinois, in 1909, was the direct result of carelessness. Miners take too great chances. They are prone to the use of excessive charges of powder. They shoot improper shots. They dislike the use of safety lamps, and resent any authoritative encroachment upon their "freedom." Most of them have learned their trade by practical experience under the tutelage of practical miners. While it is said that "experience is the best teacher," it remains true that the miners' knowledge of their own occupation may profitably be extended in many ways. Many Illinois miners are non-English-speaking immigrants and do not understand orders or instructions given in the English language. Most of them were not miners in their native land and hence do not appreciate the dangers of mining.

In the past, miners as a class have suffered from abuses and impositions of one kind or another practiced by their employers. They received their pay many days after it became due and at infrequent intervals; and when they did receive it, it was often in the form of orders on the company store, at which exorbitant prices were charged for food, clothing, powder, tools, and other supplies. In isolated mining towns the miners were compelled to live in houses owned by the company, and were forced to pay high rents for mere hovels. Another widely practiced abuse was that of improper weighing of coal and substituting larger cars for smaller

ones without making a corresponding increase in the rate of payment per car. Excessive amounts were docked for loading dirty coal. Miners were paid only for lump coal mined, but the operator changed the size of the screens at will, and made no adjustment in the mining rate so as to protect the miners' earnings.

From this description of the conditions under which coal-mining is carried on, one may readily understand why miners in every country have received protection at the hands of the state, and why the occupation of mining would be intolerable from the standpoint of personal hazards and good citizenship if governmental action were withheld.

#### DEVELOPMENT OF THE MINING CODE

With the development of coal-mining on a large scale, explosions and other accidents became more numerous and began to cause great apprehension among the miners. In 1863, a bill was introduced into the Illinois General Assembly to protect operative miners, who submitted a petition urging its enactment.<sup>1</sup> The bill passed the Senate but failed in the House. In 1867, a bill to protect coal-miners passed the House but died in the Senate. In 1869, a bill providing for escapement shafts in coal mines passed the House, but pressure brought to bear by the operators caused its defeat in the Senate.<sup>2</sup> The question was thus passed on to the Constitutional Convention which was to meet later in the year.<sup>3</sup>

When the Constitutional Convention met, one of the first committees to report was that on mines and mining interests, and a very full discussion concerning the article proposed by this committee for the protection of coal-miners took place on January 24, 1870. There was almost unanimous agreement among the members of the convention that a provision should be included in the new constitution requiring the General Assembly to pass laws for the protection of coal-miners, but there was disagreement as to the form this

<sup>1</sup> *House Journal*, 1863, p. 204.

<sup>2</sup> Illinois Constitutional Convention, 1869-70, *Debates and Proceedings*, I, 272.

<sup>3</sup> See *Chicago Tribune*, January 27, February 8, and April 12, 1869; *Illinois State Register*, January 26, 1870.

provision should take. The group which was best informed concerning the miners' needs desired an article making it mandatory upon the General Assembly to enact specific, designated provisions into law. It was stated that the miners of the state had little opportunity to make a direct appeal to the legislature,<sup>1</sup> but that the operators on the other hand had ample opportunity to make such appeals to the legislature as they wished.<sup>2</sup> This group, therefore, believed that the only way to insure the enactment of adequate protective legislation for coal-miners was to require the legislature to enact certain designated provisions into law. The other group, on the other hand, pointed out the fact that the conditions under which coal-mining was carried on might change so as to render obsolete any specific requirements that might be written into the constitution. They therefore favored a general clause requiring the General Assembly to pass such laws as might be "requisite" for the protection of the lives and the health of operative miners. The convention finally voted 58 to 1 in favor of the following article, which represents a compromise between the two viewpoints:

SECTION 1.—It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts or other appliances as may secure safety in all coal mines.

SEC. 2.—The General Assembly shall provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.<sup>3</sup>

When the General Assembly met in 1871, John Hinchcliffe, a miner representing St. Clair County, introduced a bill which was similar to a bill the coal-miners of Ohio had been attempting to

<sup>1</sup> One speaker (Mr. Dement) said that the chances were one hundred to one that there would not be a practical laborer or coal-miner in the lobby, or in the hall itself, when the General Assembly considered the question of mining legislation. He therefore favored the incorporation of a specific provision in the constitution (*Debates and Proceedings*, p. 260). 275

<sup>2</sup> *Debates and Proceedings*, p. 269.

<sup>3</sup> *Ibid.*, p. 276. With slight verbal changes this article became article 4, section 29, of the constitution as finally adopted.



force through the Ohio legislature. The system of state mine inspection provided for by the bill called forth pronounced opposition, by members representing the rural counties, to the creation of new offices; consequently the bill was withdrawn, and another, designed to appease this group, was prepared by a committee of miners, of which Walton Rutledge was chairman, and was introduced by Mr. Hinchcliffe.<sup>1</sup> This bill passed both houses without much opposition and was approved by the governor on March 27, 1872.<sup>2</sup> The law covered the subjects of ventilation, escapement shafts, bore holes, signaling, hoisting, and reporting and investigation of accidents. The county surveyors were constituted ex officio inspectors of mines within their respective counties.<sup>3</sup> Young persons under fourteen years of age and all females were prohibited from working in any mine.

Two amendatory acts of a minor nature were passed in 1873,<sup>4</sup> and in 1877 several sections were amended,<sup>5</sup> the most important amendment being one requiring the county boards to appoint mine inspectors for their respective counties, thus making possible somewhat better inspection of mines.

The first general revision of the laws governing coal-mining operations was made in 1879.<sup>6</sup> Most of the sections of the earlier laws remained unchanged when incorporated in the revised law, but some were made more elaborate in order to promote greater safety in mining. The miners sent a delegation to Springfield to work for a law compelling mine-owners to provide better ventila-

<sup>1</sup> Roy, *History of the Coal-Miners of the United States* (3d ed., 1907), chaps. x and xii.

<sup>2</sup> Widespread interest of the coal-miners in the passage of laws for their protection was manifested by the presentation of numerous petitions containing hundreds of signatures urging the passage of bills then before the General Assembly. See *House Journal*, 1871, pp. 160, 208, 274, and elsewhere.

<sup>3</sup> For a discussion of the weakness of this system of inspection see section on mine inspection.

<sup>4</sup> *Laws of 1873*, p. 126; *Laws of 1873-74*, p. 122.

<sup>5</sup> *Laws of 1877*, p. 139.

<sup>6</sup> *Laws of 1879*, p. 204.



tion and to furnish timbers for making workplaces safe.<sup>1</sup> The legislature met these demands by amending the section dealing with mine ventilation and by adding a new section requiring the furnishing of timbers.

Before the second general revision of the mining code was made in 1899, numerous acts were passed amending the code as it stood in 1879, and in addition several new laws were enacted dealing with subjects not hitherto legislated upon. Two amendatory acts were passed in 1883; one in 1885; one in 1887; one in 1889; two in 1895, and one in 1897—eight in all. Five acts were passed beginning with the year 1883 dealing with the weighing of coal at the mines, permitting the miners to employ checkweighmen, and providing for the weighing in gross of coal hoisted at mines. Other acts prohibited the truck system of wage payment,<sup>2</sup> required weekly payment of wages, and payment of miners' wages in lawful money. Several of these acts encountered constitutional difficulties which are discussed in chapter v. In 1895, an act was passed fixing standards for oils used in coal mines. Other acts added to the duties of mine inspectors, and provided for the examination, and regulated the employment, of mine managers, fire bosses, and hoisting engineers. A law of 1895 granted miners and laborers at coal mines liens on the mining property for the full amount of labor performed by them. A law of 1897 endeavored to promote greater safety in coal-mining by requiring miners to give satisfactory evidence of their competency before being employed.

By this time the mining laws of the state were in a chaotic condition and were sadly in need of revision. In 1897, the House Committee on Mines and Mining reported a resolution to the General Assembly pointing out the fact that for more than a quarter of a century laws had been passed from time to time affecting the mining interests of the state; that the accumulation of legislative acts by which many laws or sections thereof had been modified or

<sup>1</sup> Illinois General Assembly, House, *Report of the Special Committee on Labor* (1879), p. 62.

<sup>2</sup> This law was of general application, but the coal-miners were the most important group affected by it and were largely instrumental in securing its passage.

repealed, either directly or by implication, had rendered the mining laws uncertain, confusing, and frequently unintelligible, and that the work of revising and supplying the deficiencies in the several enactments pertaining to the mining interests of Illinois was of such scope and character as to prevent the Committee on Mines and Mining or the members of the General Assembly from devoting the time and study which the importance of the subject required. The Committee therefore favored the adoption of a joint resolution authorizing the appointment of a Joint Commission on Revision of Mining Laws with full power and authority to make a revision and compilation of all the laws pertaining to mining.<sup>1</sup> Mr. David Ross, secretary of the State Bureau of Labor Statistics, appeared before the Committee on Appropriations, to which this resolution was referred, and urged the appointment of a commission to make this revision. The chairman of the committee, however, stated that he believed this work properly belonged to the Bureau, and suggested that Mr. Ross himself assume charge of the work. The resolution was not pushed farther. The Bureau, therefore, began the work of revision, and after a year's time, during which the mining laws of the different states of this country and of Europe were investigated, drafted a bill which not only consolidated the various mining laws of the state, but embodied the results of this investigation as well as the accumulated knowledge acquired during years of experience under mining conditions peculiar to Illinois. After completing this work, the Bureau invited representatives of the operators and miners to confer with it and offer such suggestions as they might see fit, the purpose being to present to the General Assembly a bill having the approval and support of both miners and operators as well as of the Bureau itself, thereby securing its passage without opposition. At this conference the bill was approved except for some minor details, and plans were made to have it introduced into the legislature as an "agreed" bill.<sup>2</sup> The impor-

<sup>1</sup> *House Journal*, 1897, pp. 827-28.

<sup>2</sup> One of the most active proponents of this revision of the mining code was Mr. S. M. Dalzell, president of the Illinois Coal Operators' Association and member of the State Mining Board. See his testimony before the United States Industrial Commission, April 14, 1899, given in Volume XII of the Commission's *Report*, p. 107.

tance of this step cannot be overemphasized, inasmuch as the method of agreement and united support of bills by both parties involved has been used with remarkable success in practically all mining legislation in Illinois since 1909, as well as in some other aspects of labor legislation.

When the General Assembly met in 1899, Governor Tanner, after discussing the chaotic condition of the mining code and stating that both operators and miners were demanding that it be revised, urged the enactment of such a measure as would leave no doubt concerning the intention of the legislature or the responsibilities of those engaged in mining.<sup>1</sup> The bill prepared by the Bureau of Labor Statistics was then introduced into the General Assembly and passed both houses without a dissenting vote.

The new law, which covered nearly thirty printed pages and prescribed detailed regulations governing nearly every subject relating to safe and healthful conditions of coal-mining, was one of the best and most consistent acts on the Illinois statute books, and, with the possible exception of the Pennsylvania mining code, was the most comprehensive and the most effective mining law in the country.<sup>2</sup>

Notwithstanding the comprehensive character of the revision of 1899, every succeeding General Assembly has found it advisable to pass laws regulating in even greater detail such aspects of mining as had already been dealt with and extending control in still other directions. Besides these regulatory activities, the state itself has undertaken some positive functions of importance, such as the appointment of mining-investigation commissions, the establishment and maintenance of mine fire-fighting and rescue stations, and of miners' institutes, which were established in connection with the state university.

In 1903, an act was passed requiring coal-mine operators to

<sup>1</sup> *House Journal*, 1899, p. 23.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Annual Coal Report* (1899), pp. iv-v; National Association of Officials of Bureaus of Labor Statistics in the United States, *Proceedings of the Fifteenth Annual Convention* (1899), p. 94; Officials of Bureaus of Labor Statistics of America, *Proceedings of the Seventeenth Annual Convention* (1901), pp. 159-61.



provide their mines with washrooms for the convenience of the miners and other employees. This act, however, like so many other labor laws, failed to meet with the approval of the Supreme Court of the state and was declared unconstitutional in 1906. In 1903, also, an act was passed regulating the use of powder in coal mines, and in 1911, detailed specifications concerning the character of black blasting powder sold to be used in coal mines were enacted into law. In 1905, after considerable agitation by the miners, the General Assembly passed an act requiring the operators to furnish shot-firers in mines where shooting and blasting were done. This act was amended in 1907, 1913, 1921, and 1927.

The joint agreements between the miners and the operators of Illinois in force during the first few years of the present century provided that neither party should introduce bills affecting the coal-mining industry without previously conferring with the other. From the enactment of the "agreed" law of 1899 until the year 1907, no serious attempt was made to reach agreements in this matter. In February of the latter year, however, the miners, the operators, and the state mine inspectors met for the purpose of reaching agreements on needed amendments to the mining code, but at that time were unable to agree.<sup>1</sup> They were more successful in 1909, when Mr. E. T. Bent, secretary-treasurer of the Illinois Coal Operators' Association, on authority of his organization, invited nine representatives of the United Mine Workers of Illinois (to be selected by that organization), the members of the State Mining Board, the state mine inspectors, representatives of the State Geological Survey, and representatives of the Experiment Station of the United States Geological Survey, to meet with nine representatives of the coal operators at the office of the State Mining Board in Springfield on April 1, for the purpose of discussing the question of mining legislation and of making a united request upon the legislature in behalf of such bills as they might agree upon. At that time several mining bills were pending in the legislature, some of which it was thought would be inimical to the coal-

<sup>1</sup> United Mine Workers of America, District 12, *Proceedings of the Eighteenth Annual Convention* (1907), p. 37.



mining interests without securing the protection desired.<sup>1</sup> Mr. Bent's letter called attention to the fact that, when enacted, the codified mining law of Illinois was the best in the United States, that it was the joint work of the miners, operators, and representatives of the state, and that whenever in the past they had jointly asked for legislation they had promptly gotten it, but whenever they had failed to act together there was an unseemly struggle and unsatisfactory results.<sup>2</sup>

The miners' legislative committee agreed to meet with the operators but said that they thought the mine inspectors ought to use their time enforcing laws already on the statute books rather than attempting to secure new laws. The operators again expressed their desire to confer with the miners' committee. In their report to the convention, the miners' legislative committee said that they could not well refuse to meet the operators and indorse anything the latter might offer that would be to the miners' advantage, but that from past experience they did not anticipate good results. In the meantime they prepared certain bills of their own, namely, a miners' qualification bill, a bill requiring ventilating fans to be provided with an instrument recording their speed, and a bill to require the use of mechanical devices in firing shots.<sup>3</sup>

The operators strongly opposed the first and third of these bills. They opposed the former because it would strengthen the monopoly of mining labor in the state, which the United Mine Workers already possessed; and the latter because the electric shot-firing device proposed was not yet perfected and would be dangerous in practice, and in addition would mean still further use of powder and shooting "off the solid."<sup>4</sup> The operators and miners, however, reached an agreement, and early in May came to a definite understanding with Speaker Shurtleff and Mr. Terrill, chair-

<sup>1</sup> *Fuel*, XII, No. 22 (March 30, 1909), 597.

<sup>2</sup> United Mine Workers of America, District 12, *Proceedings of the Twentieth Annual Convention* (1909), p. 59.

<sup>3</sup> *Ibid.*, pp. 59-60.

<sup>4</sup> These two abuses became serious after the miners forced the adoption of the mine-run system of wage payment in 1897.

man of the House Committee on Mines and Mining, whereby the qualification act desired by the miners should be allowed to pass, and in consideration thereof a bill supported by the operators and providing for the appointment of a Mining Investigation Commission should also pass. It was further agreed that all other mining bills then pending, or which might be introduced later, should be referred to this commission.<sup>1</sup> This bit of bargaining was carried out as planned and proved to have far-reaching effects upon future mining legislation.

Both houses of the legislature as well as the operators and miners were greatly relieved when this agreement was reached, especially the part concerning the establishment of a Mining Investigation Commission. In 1909, some twenty-seven coal-mining bills were introduced into the General Assembly, and to promote or oppose these bills both operators and miners were forced to maintain large and aggressive lobbies. Bitter clashes occurred at every meeting of the committees on mining of both House and Senate.<sup>2</sup> It was undoubtedly a much saner procedure to submit matters of this kind to a body competent to deal with them rather than to fight them out before a legislative body which, with rare exceptions, was wholly incompetent to pass upon the subject even if it had the necessary time to devote to it.

The law<sup>3</sup> which the operators obtained as their end of the bargain authorized the governor to appoint a Mining Investigation Commission, consisting of three coal-mine operators, three coal-miners, and three "qualified" men not in political life or identified with or dependent upon the patronage of either side, which should have power to investigate the methods and conditions of mining coal in Illinois with special reference to the safety of human lives and property and the conservation of the coal deposits. The commission was to report to the governor and to the General Assembly

<sup>1</sup> *Fuel*, XIII, No. 2 (May 11, 1909), 35.

<sup>2</sup> See address before the 1916 convention of the American Mining Congress by A. J. Moorshead, of Chicago, in American Mining Congress, *Proceedings of the 19th Annual Convention* (1916), p. 362.

<sup>3</sup> *Laws of 1909*, p. 55.

at its next regular session, submitting, so far as they had unanimously agreed, a proposed revision of the coal-mining laws of the state, together with such other recommendations relating to coal-mining as might seem fit and proper. Minority reports, if any, were to be made.

The enactment of this law was a very important step in advance. This was the first governmental commission vested with full authority to investigate and promote both the economic and the human interests involved in coal-mining, and the first time that the miners and operators had met officially in joint conference regarding the problems of the industry. Other committees and commissions had been limited in scope to special inquiries and specific legislative revisions.<sup>1</sup>

In the work of the Mining Investigation Commission genuine collective bargaining of the highest type has prevailed. All the good that comes from joint agreements made with a full sense of responsibility on each side has crowned its efforts. Neither the employers nor the employees should have sole power of decision as to what laws should be passed relating to their industry. The right way of settling matters of this nature is to settle them after a full discussion between the employers and employees affected, and in the presence of well-chosen representatives of the public in order to insure practical justice and enlightenment to the public, "the party of the third part," as well as to the other two parties involved. These principles have been applied in the case of the Mining Investigation Commission. When a spirit of agreement and mutual concession prevails, such as has been so much in evidence in the work of the Mining Investigation Commission,<sup>2</sup> each side becomes acquainted with and appreciates the problems of the other side, a

<sup>1</sup> Graham Taylor, in the *Survey*, January 29, 1910, p. 575.

<sup>2</sup> This spirit was strikingly shown by the fact that in 1910, when the great strike lasting five months was being fought out by the Illinois coal-miners and operators, representatives of both sides on the Mining Investigation Commission continued to co-operate on most friendly terms. This is all the more remarkable in view of the acrid controversy existing at that time between the international officers of the United Mine Workers and the administration of District 12. See article by Graham Taylor in the *Survey*, May 6, 1911, p. 258.



situation which is greatly to be desired from the standpoint of industrial relations in general, as well as for the advancement of labor legislation. Laws passed in this way rarely come up to the highest possible theoretical standard, but they are likely to approximate as high standards as the industry can bear. Even more important, however, is the fact that when both sides are in agreement and actively support the bills agreed upon, both assume the obligation to abide by them and secure their proper enforcement, and the way is cleared for improvements when business conditions are favorable. Practically all coal-mining legislation in Illinois since 1909 has been enacted upon recommendation by the Mining Investigation Commission.

Governor Deneen appointed as members of the first commission Richard Newsam, G. W. Traer, and J. W. Miller to represent the operators; John H. Walker, Charles Burch, and Bernard Murphy to represent the miners; and Professor H. H. Stock, of the University of Illinois, Dr. J. A. Holmes, of the United States Geological Survey, and Professor Graham Taylor, associate editor of the *Survey*, to serve as non-partisan members. In order to insure its success, the Commission determined that the representatives of the operators and miners should confer with their respective organizations and secure their indorsement of every feature proposed by the commission.<sup>1</sup>

The Commission had been appointed only a few weeks when the worst mine disaster in the history of the state occurred at Cherry, Illinois. This great tragedy, which resulted from failure to provide adequate means of preventing and combating mine fires, stirred the people of the state to immediate action. Governor Deneen requested the Commission to draft suitable bills for introduction into the General Assembly, a special session of which was called to enact better protective legislation for coal-miners, in addition to consideration of certain other problems then confronting the state. The Commission in its preliminary report accordingly submitted and unanimously recommended the enactment of three bills designed to lessen the dangers of coal-mining.

<sup>1</sup> *Survey*, November 6, 1909, pp. 207-8.



The first of these bills made detailed provision for fire-fighting equipment in coal mines and provided for additional mine inspectors in order to secure efficient enforcement of the act; the second bill provided for the establishment and maintenance of mine fire-fighting and rescue stations in important coal-mining centers of the state; the third bill provided for the establishment and maintenance of miners' and mechanics' institutes for the purpose of giving technical education to miners.<sup>1</sup> The first and second bills were passed by the General Assembly and approved by the governor; but the third bill, although passed by both houses, failed to receive the governor's signature since its enactment was believed to be unconstitutional inasmuch as the call for the special session did not include the subject of miners' and mechanics' institutes within its scope. In 1913, however, the General Assembly provided for the establishment and maintenance of these institutes.

Thus far the Mining Investigation Commission had not attempted a general revision of the mining laws of the state, but had confined itself mainly to the problem of protection from fires. With this problem partially solved, however, by the enactment of carefully considered laws, the Commission was free to turn to the larger problem of making a general revision of the mining code. The existing coal-mining laws of Illinois were carefully read, word by word, and the mining laws of other states and of Great Britain were analyzed and compared with those of Illinois so that the best possible law might be drafted. In carrying on the work of revision, the Commission had the active co-operation of the state mine inspectors, the Illinois Coal Operators' Association, District 12 of the United Mine Workers of America, and the Joint Powder Commission, consisting of representatives of both the operators and the miners. The United States Geological Survey contributed valuable advice and assistance. The Commission profited most, however, from the effective co-operation of the United States Bureau of Mines, the State Geological Survey, and the department of mining engineering at the University of Illinois.

After five months of steady work by the Commission and its

<sup>1</sup> See Report of the Commission, *Senate Journal*, 1909-10, pp. 80-84.

several committees, a report was drafted and submitted to the governor and the Forty-Seventh General Assembly on March 14, 1911. Five bills were presented for enactment into law: (1) a bill revising the general mining law of the state; (2) a bill regulating the character of black blasting powder used in coal mines; (3) a bill amending the existing law concerning gas and oil wells with reference to their relation to coal mines; (4) a bill amending the act of 1910 providing for fire-fighting equipment in coal mines; (5) a bill continuing the Mining Investigation Commission for another two-year period. These bills were passed by the General Assembly substantially as introduced, and once more gave Illinois one of the best mining codes in the country.

Aside from recommending the enactment of these bills, the Commission called attention to the fact that in connection with the work of revision of the mining law numerous questions had arisen which would require experimentation and investigation. It stated that the Joint Powder Commission of the operators and miners was constantly confronted by problems in connection with the testing of explosives which required apparatus and appliances for their solution not then available in Illinois. The Commission urged that these facilities be supplied by the state.<sup>1</sup> Attention was furthermore called to the fact that early in the year 1909, a rescue station was established at Urbana under the joint auspices of the State Geological Survey, the technologic branch<sup>2</sup> of the United States Geological Survey, and the college of engineering of the University of Illinois. This co-operative movement had successfully correlated two of the scientific branches of the state with the federal bureau that was especially concerned with problems of mining, and the Commission believed that this work should be continued and extended so as to include investigations of still wider scope. Since many of the problems were of far-reaching character and would require lengthy investigation, the Commission believed that before a definite line of investigation was determined

<sup>1</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 9.

<sup>2</sup> On July 1, 1910, this became the United States Bureau of Mines.

upon, a conference of all those interested in mining in Illinois should be held and a comprehensive program of action adopted that would best serve the interests of all concerned. The Commission had already given its unanimous indorsement to a bill providing for the continued support of the department of mining engineering of the University of Illinois, for the co-operative investigations being conducted by the three above-named agencies, and for a suitable building and facilities for the joint use of the Illinois Geological Survey and the department of mining engineering; and believed that it would be a great advantage to the state if proper facilities were provided for prompt investigation of the many problems that were continually arising in the coal-mining industry.<sup>1</sup>

The work of the Mining Investigation Commission was so satisfactory that both operators and miners joined in a petition to the governor asking for its continuance.<sup>2</sup> The official organ of the Illinois Coal Operators' Association stated in 1911 that,

One gratifying feature of the present session of the Illinois legislature is the absence of the flood of unwise mining bills that have hitherto been a source of annoyance to all interested in the industry in this state. The few mining bills that have so far been introduced have been introduced as individual measures and not, we take it, with the sanction of any organization interested. This may be ascribed to the fact that both miners and operators are satisfied with the work being done by the Mining Investigation Commission, and are giving that body credit for sincerity and efficiency in their work. According to the agreement made by these bodies, which are both vitally interested in mining legislation, the suggestion of amendment of the existing mining laws and recommendations for any new laws or changes are left to this commission as its proper work.<sup>3</sup>

The appointment of the Commission was reauthorized by every succeeding General Assembly up to and including the year 1921, and its recommendations were always carefully considered and acted upon.

In 1923, however, the bill providing for the appointment of the Commission failed to pass, but the operators and miners them-

<sup>1</sup> *Report*, pp. 9-10.

<sup>2</sup> *Coal Age*, November 18, 1916, p. 846.

<sup>3</sup> Editorial in *Fuel*, XVI, No. 16 (February 14, 1911), 577.



selves were largely responsible for its failure. For a number of years previous to 1923, it had been customary for representatives of the employers and workers to hold conferences at which agreements were reached as to amendments to the Workmen's Compensation Act. These amendments were always passed by the General Assembly without further ado. When the conferences were held in 1923, however, no agreement could be reached; each side thought it could get more by fighting the matter out before the legislature. The coal operators and miners were parties to these conferences. As a result, the General Assembly took the attitude that since they had always passed without question such bills as had been agreed upon by the two sides, they would not pass anything in that year since the parties themselves had been unable to reach an agreement concerning what they wanted. The bill providing for a continuance of the Mining Investigation Commission was thus lost along with numerous other labor bills. In 1925, and again in 1927, the General Assembly reauthorized the appointment of the Commission, inasmuch as an agreed bill of that nature was supported by both operators and miners.

While the Mining Investigation Commission has been of invaluable service in securing a satisfactory mining code for Illinois, it has not overlooked the even larger problem of non-uniformity of mining legislation among the several states. The coal-mining industry of most other states has an advantage over that of Illinois in competition for markets because of the relative backwardness of their safety legislation. The Mining Investigation Commission therefore recommended to Governor Dunne that other states be invited to appoint members to an Interstate Commission to draft uniform laws which would eliminate the question of mine safety as an element in interstate competition.<sup>1</sup> Governor Dunne accord-

<sup>1</sup> The question of uniform coal-mining laws received attention by the Mine Inspectors' Institute of the United States at several of its annual meetings following its organization in 1908. It was unable to accomplish anything of importance in this respect. See paper on "Uniform Coal-Mining Laws" by James W. Paul, in American Mining Congress, *Proceedings of the 19th Annual Convention* (1916), p. 572.



ingly sent out a call to the governors of fourteen coal-mining states, asking them to appoint committees representing the operators, the miners, and the public, which should meet in Chicago November 13, 1916, in connection with the American Mining Congress, for the purpose of considering uniform mining legislation. Representatives from Colorado, Indiana, Iowa, Kansas, Kentucky, Montana, North Dakota, Pennsylvania, Tennessee, Washington, and West Virginia thereupon met with those of Illinois on the date mentioned and formed a separate association called "The Uniform Mining-Laws Association," with A. J. Moorshead, a coal operator of Chicago, as president; Robert Harlin, of the International Executive Board of the United Mine Workers of America, vice-president; J. G. Grossberg, of the Illinois Mining Investigation Commission, secretary-treasurer.

This Association drafted, and presented to the American Mining Congress, a resolution providing for the appointment of a commission consisting of representatives of the operators, the miners, and the public, with the Director of the Federal Bureau of Mines an *ex officio* member, whose duty should be to draft and report to the next meeting of the Association a tentative mining code which should be recommended for adoption by the legislatures of the several coal-mining states. It will be noted that the plan of representation adopted was modeled after the plan used in Illinois for the Mining Investigation Commission. In Illinois, the director of the United States Bureau of Mines was appointed a member of the first commission, and was one of the three representatives-at-large, but in the proposed plan for an interstate commission, he was to be an *ex officio* tenth member.<sup>1</sup> One reason for specifically designating this official a member of the commission was to make it possible to request and obtain an appropriation from Congress for

<sup>1</sup> The commission was to consist of three coal-miners, appointed by the International Executive Board of the United Mine Workers of America; three coal operators appointed by the American Mining Congress; three members not identified with either operators or miners and not dependent on the good will of either, to be appointed by the Secretary of the Interior, and the Director of the United States Bureau of Mines.

carrying on the work.<sup>1</sup> The American Mining Congress, however, believed that drafting of the law should be done by the Federal Bureau of Mines, rather than by a commission which "could" not be representative of the coal-mining industry of the entire country.<sup>2</sup> No agreement was reached as to which plan should be adopted, and apparently nothing further was done. This point of disagreement was, of course, perhaps the least insuperable of all the obstacles to be overcome before anything resembling uniformity in mine-labor legislation could be attained.

In addition to passing the five bills drafted by the Mining Investigation Commission, the General Assembly in 1911 authorized an investigation of the coal resources and mining practices of Illinois by the department of mining engineering of the University of Illinois and the State Geological Survey in co-operation with the United States Bureau of Mines; and a co-operative agreement covering the proposed study was approved by the Secretary of the Interior and by representatives of the state of Illinois. The direction of this investigation was vested in the director of the United States Bureau of Mines, the director of the State Geological Survey, and the director, Engineering Experiment Station, University of Illinois, who jointly determine the methods to be employed in the conduct of the work and exercise general editorial supervision over the publication of the results. Each party to the agreement, however, directs the work of its agents in carrying on the investigation thus mutually agreed upon. Before the work was planned and in order to obtain the viewpoint of those directly interested in coal-mining in Illinois, a number of conferences were held with the State Mining Board, the state mine inspectors, the several organizations of coal operators, and the officials of the United Mine Workers. Many suggestions were received from each of these organizations that were of great assistance in selecting typical mines, and in planning and carrying out the work. The United States Weather Bureau has also heartily co-operated in the gathering of very com-

<sup>1</sup> American Mining Congress, *Proceedings of the 19th Annual Convention* (1916), p. 524.

<sup>2</sup> *Ibid.*; *Mining Congress Journal*, Vol. II, No. 12, December, 1916.

plete information upon the atmospheric conditions in Illinois as they affect the ventilation of mines and dangers from coal dust.<sup>1</sup> Many valuable bulletins have been issued embodying the results of the extensive research carried on under this co-operative agreement.

Let us now continue our discussion of the work of the Mining Investigation Commission. After the revised mining code of 1911 came into operation, the Commission took steps to discover how well the law was accomplishing its purpose and what improvements, if any, should be made. A questionnaire designed to elicit full information on the subject was prepared and sent to the State Mining Board, the state mine inspectors, the United Mine Workers, the Coal Operators' Association, the Mine Rescue Commission, and to other persons who might have suggestions to make. There was a very general response to this questionnaire.<sup>2</sup> The suggestions received were divided into three groups, as follows: (1) those relating to new devices or new explosives introduced into the mines since the enactment of the 1911 law; (2) those relating to improved provisions for safety which experience with the law had suggested; (3) those relating to administrative features of the law, the constitution of the State Mining Board, and adequacy of provisions for enforcement.

At this point we shall only mention some of the specific problems coming before the Commission, leaving a detailed discussion until later in this chapter where each subject will be taken up under an appropriate heading. As to new appliances and explosives, two questions of importance were discussed, namely, contamination of mine air by fumes from gasoline motors and the question of "permissible" explosives. Out of this discussion came the law regulating the character of permissible explosives sold to be used in Illinois coal mines. No bill was recommended dealing with gasoline motors. Additional provisions for health and safety (group 2 above) oc-

<sup>1</sup> Illinois Coal Mining Investigations, Co-operative Agreement, *Preliminary Report on Organization and Method of Investigations* (1913), p. 7.

<sup>2</sup> To assist in sifting the data, the State Mining Board detailed three experienced mine inspectors who gave much information and advice to the Commission.



cupied a large share of the Commission's attention. Many suggestions were received from the state mine inspectors, the miners' union, and from other sources, and considerable oral testimony was heard. The Commission was unable to approve some of these suggestions because the Illinois mining code was already much in advance of mining codes of most other states and additional requirements would too greatly handicap the Illinois mining industry in competition for markets. Numerous improvements were made, however, in the provisions relating to hoisting machinery, haulage, storage of oils, ventilation, inspection and examination of mines, and fire prevention. The problem of increased efficiency of administration also occupied much of the Commission's time. It was felt that more elasticity was needed, and a committee was appointed to investigate and report on the Industrial Commission Plan of Wisconsin. Proposals for reorganization of the State Mining Board and appointment of a high-class central executive were also received. The only improvements recommended by the Commission at that time, however, were an increase in powers of the State Mining Board, higher salaries for mine inspectors, and better inspection of gas and oil wells.

Other recommendations of the Commission included support of the department of mining engineering of the University of Illinois, the co-operative investigation of mining conditions, and the State Geological Survey. It also strongly urged that an appropriation be made for support of the miners' and mechanics' institutes.<sup>1</sup>

The mining law has been amended by every General Assembly since 1911, but no general revision has been made since that year. Aside from the law of 1913 regulating the character of permissible explosives, these various laws have been chiefly in the nature of refinements of regulations concerning phases that had already been legislated upon. The various sections of the law as it now stands relate to administration through the Department of Mines and Minerals and its various branches; the examination, certification, and duties of mine managers, mine examiners, hoisting engineers,

<sup>1</sup> The 1913 Report of the Mining Investigation Commission may be found in *House Journal*, 1913, pp. 721-25.



and miners; mine maps; oil wells in relation to coal mines; sinking of shafts; escapement shafts; hoisting equipment; buildings on the surface; storage of oil and explosives; ventilation; safety lamps; regulations concerning haulage roads and mine cars; use of electricity; standards for illuminating oils used in coal mines; the use of powder and other explosives; standards to which blasting powder and permissible explosives must conform; procedure to be followed when driving toward abandoned mines; fire-fighting equipment and rescue stations; first-aid equipment, and many other matters of lesser individual importance. The next section of this chapter deals with the development of these various aspects of the mining law. Other sections of the law, such as those dealing with miners' washrooms, wage legislation, employment of women and children, and compensation for accidents, are discussed in other chapters.<sup>1</sup>

#### ADMINISTRATION OF THE MINING LAW

When the system of state mine inspection was introduced in 1883, a board of examiners, appointed by the Bureau of Labor Statistics and consisting of two practical coal-miners, two coal operators, and one mining engineer, was created for the purpose of recommending to the governor persons properly qualified for the office of state mine inspector.<sup>2</sup> Its duties were broadened in 1891 to include the examination and certification of mine managers, and in 1895 to include the same duties with respect to hoisting engineers and fire bosses.

<sup>1</sup> Nothing is said in the succeeding pages concerning penalties for violation of the various laws, but it may here be said that in general fines and jail sentences were imposed varying according to the gravity of the offense.

<sup>2</sup> The law of 1899 stated that the Board was to be appointed "for the purpose of securing efficiency in the mine inspection service and a high standard of qualification" in those who had the management and operation of coal mines.

The law of 1883 provided that members of the Board were each to receive three dollars a day for the time actually employed in performing the duties of their office, but not exceeding thirty dollars a year, and, in addition, actual traveling expenses. The law of 1891 permitted members to receive this rate of pay for not exceeding eighty days in any one year. The revision of 1899 increased the rate of pay to five dollars a day, and permitted yearly sessions one hundred days in length. The law

The revised mining law of 1911 provided for extensive additions to the powers and duties of the State Mining Board,<sup>1</sup> namely, control over the activities of state mine inspectors; authority to change the boundaries of mine-inspection districts when necessary; collection of statistical data concerning coal-mining and publication of the data collected as its own report; the establishment and enforcement of a standard for illuminating oils to be used in coal mines; certain duties with regard to the testing of black blasting powder; special powers with reference to certain minor details, and enforcement of the law.<sup>2</sup>

The Mining Investigation Commission in 1913, feeling the need of still better administration of the mining code, appointed a committee to investigate the Industrial Commission Plan then in operation in Wisconsin.<sup>3</sup> When the committee made its favorable report, a number of the leading members and officials of the Illinois Coal Operators' Association and the United Mine Workers of Illinois were present. There was a full discussion of the report, and while

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of 1921 doubled this rate of pay, but did not change the length of the annual session. The terms of office of members were originally one year in length, but in 1885 this was increased to two years. A few minor changes have been made from time to time in the qualifications of members of the Board. The revision of 1899 designated this Board the "State Mining Board." In 1907, power to appoint the Board was vested in the governor.

<sup>1</sup> As provided in previous laws the Board was to examine persons desiring appointments as state mine inspectors, and those seeking certificates of competency as mine managers, hoisting engineers, and mine examiners. After the Civil Service Law became effective, July 1, 1911, the State Civil Service Commission gave the examinations for state mine inspectors, but according to a ruling of the attorney-general of Illinois, dated October 24, 1913, the mine inspection service was not included under this law. The State Mining Board then resumed the work of giving the examinations. See Illinois Miners' and Mechanics' Institutes, *Bulletin No. 1*, p. 30.

<sup>2</sup> The Board was not specifically charged with enforcement of the state mining law until 1913. See the next few paragraphs.

<sup>3</sup> Under this plan the legislature merely lays down general standards which are to govern the industry or activity in question, and gives certain administrative authorities power to make detailed investigation and issue orders designed to carry out the general provisions of the law.

the consensus of opinion was favorable to the Wisconsin plan, the time was considered inauspicious for its introduction in the mining industry of Illinois. The report was accordingly filed among the records of the Commission and commended to the consideration of some commission working at a more auspicious time.

Another proposal was that of reorganizing the State Mining Board by placing a high-class executive in charge, on a salary commensurate with the importance of his duties. Since the General Assembly was at that time considering a proposal to reorganize the administrative departments of the state, the Commission thought it should not take action in the matter.

The result of the Commission's deliberations on this subject was the enactment of an amendment providing that the State Mining Board "shall have the power and shall in person and through the state mine inspectors see that all the provisions of the state mining law are enforced."<sup>1</sup>

The various agencies administering the state mining law were consolidated into one department by the Civil Administrative Code of 1917. The Department of Mines and Minerals was created with a Director of Mines and Minerals, a person thoroughly conversant with the theory and practice of coal-mining but not identified with either coal operators or coal-miners, as its head. Divisions were created within the Department corresponding to, and having, the powers, rights, and duties formerly residing in the State Mining Board, the state mine inspectors, the miners' examining board,<sup>2</sup> and the mine fire-fighting and rescue station commission. In addition to these powers and duties, the Department was to acquire and diffuse information concerning the nature, causes, and prevention of mine accidents, and the methods, conditions, and equipment of mines, with special reference to the health and safety of employees and conservation of the mineral resources; and was to

<sup>1</sup> Report of the Mining Investigation Commission in *House Journal*, 1913, p. 723. The Commission also urged that the salary of mine inspectors be increased.

<sup>2</sup> Although the miners' examining board was part of the Department of Mines and Minerals, it was independent of all supervision or control by the Director of Mines and Minerals or by the Mining Board.



make inquiries into the economic conditions affecting the mining, quarrying, metallurgical, clay, oil, and other mineral industries, and to promote the technical efficiency of persons working in and about the mines of the state in order to aid them to overcome the increasing difficulties of mining. To accomplish the latter purpose, the Department was authorized to provide bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, or meetings for the reading and discussion of papers, and to this end it was to co-operate with the University of Illinois.<sup>1</sup>

#### MINE INSPECTION

Most labor laws require a good system of inspection and enforcement if they are to be properly observed, and mine-labor legislation is no exception to this general rule. During the first few years of its experience with this type of legislation, however, Illinois failed to provide such a system. The method adopted by the act of 1872 proved to be entirely unsatisfactory.<sup>2</sup> The county surveyors were constituted *ex officio* mine inspectors within their respective counties, and were respectively to call to their aid some reputable practical miner. The mine inspector was to see that "every neces-

<sup>1</sup> Soon after July 1, 1917, a Division of Economic Investigation was organized within the Department of Mines and Minerals, whose duties were to make inquiries into the "economic conditions affecting the mining, quarrying, metallurgical, clay, oil, and other mineral industries," and to assist in the investigation of mine disasters. (The quotation is from the law creating the Department [*Laws of 1917*, p. 4, sec. 45, paragraph 7]. See also Illinois, *Administrative Report of the Directors of Departments under the Civil Administrative Code* [1918], p. 146.) No specific qualifications or examination governing the selection of the investigator in charge of this Division was provided by law until 1921. In that year, upon recommendation by the Mining Investigation Commission (*Report* [1921], p. 2), the General Assembly authorized the State Mining Board to examine men desiring this position. They were to have the same qualifications and pass the same examination as the state mine inspectors. The report of the economic investigator is published in the *Annual Coal Report* and contains data concerning the production, number of men employed, number of days worked, kind and amount of explosives used, and fatal and non-fatal accidents in the limestone, oil and gas, sand and gravel, shale and clay, and silica industries of Illinois.

<sup>2</sup> See above, p. 292, for an explanation of why this system was adopted.



sary precaution" was taken to insure the health and safety of workmen at coal mines, that the provisions of the act were faithfully observed and obeyed, and the penalties of the law enforced against all who wilfully disobeyed its requirements. If, on inspection, a mine was found to be operated contrary to the provisions of this act, or to be unsafe for the workmen therein employed, the mine inspector might obtain an injunction prohibiting further operation of the mine until it was made safe and the requirements of the act complied with (sec. 13). The operator was required to pay for one inspection every year, and for all inspections indicating that he had not complied with the provisions of the act (sec. 11). Inspectors were required to go at once to the scene of coal-mine accidents which resulted in loss of life or serious personal injury, and were to make such suggestions and render such assistance as they deemed necessary for the safety of the men. They were also to investigate the causes of such accidents and keep on file a record thereof. Each inspector was to make an annual report to the governor setting forth certain statistical material relating to the coal-mining industry in his county.<sup>1</sup>

The act of 1877 provided for somewhat better inspection service than had the original act. Instead of requiring county surveyors to serve as ex officio inspectors of mines, the new law required the county board in each county in which mining was carried on to appoint annually a man with practical mining experience to serve as mine inspector for the county. The county board was to fix the number of days to be employed by the inspector in inspecting the

<sup>1</sup> This original system of mine inspection must have been very unsatisfactory. In 1875, in response to a request by the House of Representatives for information relating to coal mines and the mining interests of the state, Governor Beveridge stated that although the law required county surveyors, as ex officio inspectors of coal mines, to make annual reports to the governor covering the points upon which information was sought, reports had been received from only thirteen counties, although many other counties in the state contained coal mines. He was therefore unable to supply the information desired. See *House Journal*, 1875, p. 129. In 1876, only six reports were received by the governor. In 1877 Governor Cullom was unable to furnish information on coal-mining because so few reports had been received (*House Journal*, 1877, p. 171).

different mines of his county, and compensation was to be paid at the rate of from three to five dollars per day for the time actually employed. The act of 1879 required the county board to furnish the inspector with instruments for testing the air in coal mines.

In adopting this system of mine inspection Illinois did not profit by the experience of Pennsylvania, Ohio, Indiana, and perhaps other states, which had state mine inspectors appointed by the governor. The defects of the Illinois system soon became manifest. Many county boards failed to appoint an inspector even though the county contained important mines. Others made ridiculously inadequate allowances of time and pay, while many failed to provide instruments and other equipment essential to efficient inspection. The time allowed was ordinarily the shortest which would permit inspection of each mine once a year, and the pay was fixed at but little more than a miner could earn while mining coal. One county (Scott) paid its inspector only \$4.50 per annum: he was allowed three days' time at the rate of \$1.50 a day in which to inspect thirteen mines. Other counties paid \$16, \$20, \$32, \$48, \$60, and \$90. Out of this stipend the inspector was expected to pay his own traveling and incidental expenses and furnish bond of \$1,000 to \$3,000 for the faithful performance of his duties. Sangamon County made the most liberal provision for inspection—three hundred days at \$3 a day—the only inspector's salary paid in the state which would "justify a competent man in devoting his whole time to the manifold and responsible duties of his office."<sup>1</sup> As a rule men appointed as inspectors were practical miners who had to depend upon employment at their regular occupation during the part of the year in which they were not employed as inspectors. In many localities this fact prevented thorough and impartial performance of their duties, since rigid enforcement of the law would have resulted in their being placed upon the operators' blacklist, which was believed to be very effective at that time. It was apparent to many that to secure proper enforcement of the mining law, inspectors would have to be made independent of local influences, particularly those which placed them at the mercy of the

<sup>1</sup> Illinois Bureau of Labor Statistics, *Second Biennial Report* (1882), p. 108.

operator during the greater part of the year. One demand made by the miners, when the Special Committee on Labor conducted hearings at Braidwood in 1879, was inspection of mines by a state inspector.<sup>1</sup> The county inspectors themselves often urged that the state be divided into inspection districts large enough to take up all the inspector's time, and that competent men be appointed to the office.<sup>2</sup> The State Bureau of Labor Statistics in its *First Biennial Report* recommended that the mine-inspection law be amended so as to provide for dividing the state into not less than twelve mine-inspection districts, with one inspector appointed by the state for each district at a salary of not less than \$1,000 per year, plus \$250 for traveling and other expenses.<sup>3</sup> It was felt that the provisions of the law relating to the management of mines were comprehensive enough to meet the wants of any section of the state—all that was needed being an effective means of enforcement.<sup>4</sup>

When the General Assembly met in 1883, the mining problem that received the most careful consideration and provoked the most discussion both within and without the legislative chambers was that of mine inspection. Although at every session of the General Assembly since the passage of the first mining bill in 1872 the miners had made strenuous efforts to secure a system of state mine inspection, not until after the Diamond mine disaster near Braidwood in February, 1883, in which sixty-nine miners were drowned, were they able to secure legislative action.<sup>5</sup> After this great disaster the House of Representatives requested information from the State Bureau of Labor Statistics concerning the condition of the coal mines in the state so that legislation might be passed for better protection of the miners. The Bureau reported that only 354 of the 704 mines in the state were provided with escapement

<sup>1</sup> Illinois General Assembly, House, *Report of the Special Committee on Labor* (1879).

<sup>2</sup> Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), p. 221; *Second Biennial Report* (1882), p. 107.

<sup>3</sup> Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), p. 236.

<sup>4</sup> *First Biennial Report* (1881), p. 222.

<sup>5</sup> See Andrew Roy, *History of the Coal Miners of the United States* (1907), p. 138.



shafts as required by law. In the case of some mines of unusual depth the time limit for construction of escapement shafts had not expired, but in other instances delays were secured by appeals to the courts, or by compromises with indifferent inspectors; while in others no inspectors had been appointed, or the inspection service was so inefficient that compliance with the law was merely optional with the mine-owners. Only 396 of the total number of mines were reported to have good ventilation; but the Bureau called attention to the likelihood that these reports were colored since the inspectors were miners who were dependent for their living upon work in the mines they inspected, and would be afraid to make adverse reports. Notwithstanding this predisposition to leniency on the part of the inspectors, only 233 mines out of 704 were reported as being operated in all respects within the requirements of the law. The Bureau believed that satisfactory conditions of safety in the mines could be attained only by entirely revolutionizing the system of mine inspection. It recommended that the state employ expert mining engineers in each of the principal coal districts to give intelligent and efficient execution to the mining laws.<sup>1</sup>

In addition to the Bureau of Labor Statistics, the miners and many of the operators were urging the adoption of a system of state inspection. Delegations of miners from different parts of the state directed the attention of the committee on mines and mining to the subject. The more responsible and better-type operators desired an efficient system of inspection which would insure uniform and impartial enforcement of the law, thus equalizing in this respect conditions of competition in the industry. Several conferences were held by those interested, with members of the joint legislative committee, and the result was the framing of a committee bill which provided for a district inspection service modeled largely upon the laws and experience of Pennsylvania.<sup>2</sup>

The new law divided the state into five inspection districts, and provided that the governor should, upon recommendation of

<sup>1</sup> *House Journal* (1883), pp. 256-57.

<sup>2</sup> Illinois Bureau of Labor Statistics, *Third Biennial Report* (1884), p. 419.



a board of examiners selected for the purpose, appoint five properly qualified persons to serve as inspectors of coal mines in these five districts. Such inspectors must have attained the age of thirty years, be citizens of the state of Illinois, and have a knowledge of mining engineering sufficient to enable them to conduct the development of coal mines, and a practical knowledge of methods of mining coal in the presence of explosive gases, and of the proper ventilation of coal mines. It was stipulated that they should have had a practical mining experience of ten years,<sup>1</sup> that they should not be interested as owner, operator, stockholder, superintendent, or mining engineer of any coal mine during their term of office, and that they should be of good moral character and temperate habits.<sup>2</sup>

The law of June 15, 1895, made several changes of importance. The state was divided into seven inspection districts and the ap-

<sup>1</sup> In order to make sure that candidates for appointment as state mine inspectors possessed a knowledge of Illinois mining conditions, the law of 1915 required that at least two of the ten years' practical experience in mining must have been in Illinois.

<sup>2</sup> Inspectors were appointed for terms of one year, and were to receive a salary of \$1,800 per year. They were required to furnish bond in the sum of \$5,000 for the faithful performance of their duties.

Each county board was permitted to appoint an assistant inspector for the county, who was to act under the direction of the district state inspector. The law of 1895 authorized their appointment only in counties producing as much as eight hundred thousand tons of coal per annum. The revised code of 1899, however, authorized their appointment in any coal-producing county regardless of annual output.

In 1911 the Mining Investigation Commission suggested several changes in the mine inspection service. It strongly urged the substitution of deputy state inspectors appointed by the governor and subject to the control of the State Mining Board, in place of the county mine inspectors appointed by the various county boards. This would create a compact organization and give greater efficiency of inspection. The Commission further recommended that the salaries of state mine inspectors be increased to \$3,000 a year, and that deputy inspectors be paid \$2,100 a year. Salaries of these amounts were considered advisable in order that high grade men might be secured and retained for these positions, which called for unusual special knowledge, experience, and ability (*Report* [1911], p. 5). The appropriation committee of the House, to which the bill was ultimately referred, reported amendments, however, striking out the clauses relating to deputy state inspectors and increased salaries; consequently, these recommendations of the Commission were not adopted.

pointment of seven mine inspectors corresponding to them was authorized. The qualifications of mine inspectors and their salaries were unchanged, but instead of the state furnishing apparatus for making inspections, the inspectors were required to provide themselves with the necessary instruments. Each inspector was required to inspect every mine in his district as often as he deemed necessary and proper, but at least four times a year; and each inspection was to be certified to by the mine manager and the pit committee of the mine. The inspector was required to post in some conspicuous place at the top of each mine inspected a plain statement of the condition of the mine, showing what he believed to be necessary for the better protection of the lives and health of the mine employees. The operator was required to pay an inspection fee of from \$6 to \$10 for each inspection of a mine made by a state mine inspector.<sup>1</sup>

The revised mining code of 1899, while dividing the state into seven mine inspection districts as in the law of 1895, authorized the commissioners of labor to make such changes in the boundaries of inspection districts as they believed necessary in order to distribute more evenly the labor and expenses of the state mine inspectors. The board was not, however, permitted to increase the number of districts.<sup>2</sup>

The method of appointing inspectors remained practically the same as that established by the act of 1883. A State Mining Board, which is discussed in another part of this chapter, certified to the governor the names of all candidates for appointment as state mine inspector who satisfactorily passed the examination now for the first time specifically required by law. This examination was

<sup>1</sup> By common consent of all parties interested, the provision of the law of 1895 requiring operators to pay inspection fees was omitted from the revised law of 1899. It was the unanimous opinion that the state should defray the expenses of mine inspection. See *Illinois Coal Report* (1899), p. 207.

<sup>2</sup> In 1905, the commissioners of labor were authorized to divide the state into ten inspection districts. It will be noted that the General Assembly here for the first time entirely refrained from fixing the boundaries of the districts, and left the matter in the hands of the commissioners of labor. In 1911, the number of districts and of inspectors was increased to twelve, because of the growth of the industry.

to test the candidate's practical and technical knowledge of mining engineering and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of the geology of the coal measures of the state, and of the laws of the state relating to coal mines.<sup>1</sup> Other qualifications as to character and mining experience of candidates were practically unchanged.<sup>2</sup> Inspectors were to receive the same salary as before, namely, \$1,800 per annum, but the important provision was added that they should be reimbursed for the amount actually expended for traveling expenses. The act also returned to the principle that the state should furnish inspectors with the instruments necessary for the proper carrying out of its provisions.

Upon recommendation by the Mining Investigation Commission several changes of importance were embodied in the revised mining law of 1911.<sup>3</sup> State mine inspectors were to make a personal examination at least once in every six months of each mine in their district in which marsh gas had been detected in quantities which were considered dangerous by the State Mining Board.<sup>4</sup> The State

<sup>1</sup> The act of 1911 added the requirement that mine inspectors should be acquainted with mine rescue methods and appliances and with methods of giving first aid to the injured.

<sup>2</sup> Besides those passing the examination, the State Mining Board was to certify to the governor, as a person properly qualified, anyone who had satisfactorily passed two of such state examinations, who had served acceptably as state inspector for two full terms, and who made written application to the Board setting forth these facts. The governor was required to appoint all state mine inspectors from this list of persons.

The law of 1911 provided that any state mine inspector in actual service and good standing and who had passed one examination under the act might be reappointed for the next ensuing term without further certification, but might not be so reappointed more than three times.

<sup>3</sup> Some changes made by the 1911 act have already been dealt with in footnotes.

<sup>4</sup> Under former laws this work might have been done by county inspectors acting under the direction of state inspectors. The amendment of 1913 provided that state mine inspectors should make personal examination at least once in every six months, or more often if necessary, of each mine in their district employing ten or more men. This provision was more definite than the former provision which



Mining Board might also require state inspectors to make a personal examination of any or all other mines in their respective districts. Every mine in the state was to be examined at least once in every six months. The Board, by reason of its control over the state mine inspectors, might require inspections of any mine as often as it deemed necessary.

Because of the long delay involved when the procedure prescribed in earlier acts was followed in an effort to secure their enforcement,<sup>1</sup> the act of 1911 gave the inspector power, after continued failure of the operator to comply with the law, to stop the operation of his mine or remove any offending persons from it until the law was complied with (sec. 29).

Although the General Assembly did not see fit to increase the salaries of mine inspectors, as had been recommended by the Mining Investigation Commission, it did adopt the Commission's recommendation allowing each inspector \$100 a month for expenses.<sup>2</sup> Experience had proved the "extreme insufficiency" of the expense allowance formerly made to inspectors, and the consequent serious limitation upon their ability to perform their duties.<sup>3</sup>

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classified the mines not according to the number of men employed but according to whether or not marsh gas had been detected in quantities which were adjudged dangerous by the State Mining Board.

<sup>1</sup> Under the 1899 act an inspector who found that any section of the act was being neglected or violated was to order immediate compliance therewith, and, in case of continued failure to comply, was, through the state's attorney, to take the necessary legal steps to enforce compliance. This process, of course, permitted of long delay.

<sup>2</sup> *Report*, p. 5. In its report to the Special Session of 1909-10, the Mining Investigation Commission had strongly urged an increase from \$600 to \$1,200 per year for traveling expenses of each inspector. The law of 1915 allowed \$1,200 per year for traveling and other expenses instead of \$100 per calendar month.

<sup>3</sup> In a paper read before the National Mine Inspectors' Institute of America, Mr. G. W. Traer, an Illinois coal operator and member of the Mining Investigation Commission, pointed out the absurdity of requiring the ten state mine inspectors to inspect personally the thousand coal mines in the state in addition to preparing annually a voluminous statistical report without clerical assistance, with a lack of office facilities, and upon an annual expense allowance adequate for little if any more than six months' work upon physical inspections. See article entitled "Mine Inspection and Mining Laws" reprinted in *Fuel*, Vol. XVI, No. 6 (December 6, 1910).



## MINE MAPS

Reliable mine maps form an essential part of the equipment of mine inspectors and of mine-rescue corps, and have been required in Illinois since the enactment of the first mining law in 1872. This law required the operator of every coal mine in the state employing ten or more men<sup>1</sup> to cause accurate maps to be made of the mine and deposit one copy with the inspector of coal mines, one copy with the recorder of the county in which the mine was situated, and keep one copy for inspection at the office of the mine.<sup>2</sup> During January of each year he was required to furnish the inspector and the recorder with a statement and a further map showing the progress of the workings during the preceding year. When mines were worked out or abandoned, this fact was to be reported to the inspector, and the map of the mine filed in the inspector's office was to be carefully corrected and verified. In case the mine operator failed to furnish the inspector and recorder with maps as required by law, the inspector was authorized to have a map made at the expense of the mine owner.<sup>3</sup>

The law respecting mine maps was amended from time to time and reached essentially its present form with the second general revision of the mining code made in 1899. It specifies in great detail the character of the maps required. Separate maps are required for each seam worked, and, when needed for the sake of clearness, for the surface as well.

## QUALIFICATIONS AND DUTIES OF HOISTING ENGINEERS

It is obvious that safety of the underground workers in coal mines requires that reliable, experienced men be placed in charge of the hoisting equipment. The first Illinois mine-labor law, that of 1872, recognized this fact by prohibiting the employment of any person to take charge of the hoisting machinery of any coal mine except an experienced, competent, and sober person (sec. 7). To

<sup>1</sup> This exemption was abolished in 1883.

<sup>2</sup> The revised mining law of 1911 required a copy of each map and extensions thereto to be furnished to the manager of the mine-rescue stations for his use in connection with rescue work (sec. 7g).

<sup>3</sup> *Laws of 1871-72*, p. 568, secs. 1, 2.

these qualifications the act of 1879 added the provision that such person must be at least eighteen years of age.

There was dissatisfaction concerning the operation of this requirement since the employer, being the sole judge of the competency of the hoisting engineer, was none too careful about employing only competent men. The State Bureau of Labor Statistics in its *Fourth Biennial Report*, 1886,<sup>1</sup> called attention to the need of having better qualified men in charge of stationary engines at the mines, and suggested as a solution the enactment of a law prohibiting the employment of any person as hoisting engineer who had not passed a thorough examination given by a competent board. No action was taken by the General Assembly, however, until 1895, when a law was passed requiring persons acting as hoisting engineers to hold certificates of competency or of service granted by the State Board of Examiners.<sup>2</sup> Operators were prohibited from employing uncertificated hoisting engineers.

The revised mining code of 1899 stated more specifically the nature of the examination required for hoisting engineers and otherwise raised the qualifications required of applicants for certificates. A certificate of competency was to be granted to any person who produced evidence satisfactory to the State Mining Board that he was a citizen of the United States, at least twenty-one years of age, and of good repute and temperate habits, and that he had had at least two years' experience as fireman or engineer of a hoisting plant. He was furthermore required to pass an examination as to his experience in handling hoisting machinery, his practical and technical knowledge of the construction, cleaning, and care of steam boilers, the care and adjustment of hoisting engines, the

<sup>1</sup> Pp. 545-46.

<sup>2</sup> Certificates might be issued only to citizens of the United States, and applicants were required to produce evidence of good moral character. Certificates of competency were issued only upon examination of the applicant by the Board, but certificates of service were issued to persons having four years' practical experience as hoisting engineer, provided they had served as hoisting engineer continuously and satisfactorily for the same operator for one year next preceding the passage of the act. Certificates of service were not issued after 1899.

management and efficiency of pumps, ropes, and winding apparatus, and his knowledge of the laws of the state in relation to signals and the hoisting and lowering of men at the mine.<sup>1</sup>

The certificate of a hoisting engineer might be revoked by the State Mining Board upon sufficient proof that the holder was no longer worthy of official indorsement by reason of violations of the law, intemperate habits, manifest incapacity, abuse of authority, or for other causes satisfactory to the Board.

The act of 1899 also specifically defined the duties of hoisting engineers. The hoisting engineer was required to be in constant attendance at his engine or boilers while men were underground, and was not permitted to converse with anyone while the engine was running or while his attention was occupied with the signals. He was to hoist and lower men no faster than the rate of speed allowed by law, and was to report any derangement or breakdown of the hoisting apparatus promptly to the proper authority.

In 1921, the General Assembly passed a law,<sup>2</sup> upon recommendation by the Mining Investigation Commission,<sup>3</sup> requiring electrical hoisting engineers to produce evidence of competency. A large number of mines had ceased using steam engines and had substituted electrical equipment, therefore it was deemed advisable to require electrical hoisting engineers to pass an examination given by the State Mining Board before being permitted to serve as such. The qualifications required of electrical hoisting engineers were practically the same as those required of steam hoisting engineers, the chief difference of course being that they were required to prove their competence in handling electrical instead of steam hoisting equipment.<sup>4</sup>

<sup>1</sup> Operators might employ uncertificated hoisting engineers only in case of emergency for a period not exceeding thirty days. Persons learning to operate the hoisting engine were permitted to operate it only when the certificated engineer in charge was present and while men were not being hoisted or lowered.

<sup>2</sup> *Laws of 1921*, p. 512; S.B. No. 486.

<sup>3</sup> Illinois Mining Investigation Commission, *Report* (1921), p. 3.

<sup>4</sup> One other amendment may be mentioned here. An act passed in 1915 authorized the State Mining Board to grant a permit to operate a second motion engine



## QUALIFICATIONS AND DUTIES OF MINE EXAMINERS

"In order to secure the health and safety of persons employed in coal mines," an act of June 1, 1895, prohibited any person from serving as fire boss in any coal mine in Illinois after July 1, 1896, unless he held a certificate of competency or of service issued by the State Board of Examiners. This law did not state in detail the nature of the examination to be given or the duties required of fire bosses, or mine examiners, as they were designated by the law of 1899, but these matters were taken care of by the revised mining code of 1899.<sup>1</sup> Applicants for certificates of competency—certificates of service no longer being issued—were required to pass an examination as to their experience in mines generating dangerous gases, their practical and technical knowledge of the nature and properties of fire damp, the laws of ventilation, the structure and uses of safety lamps, and the laws of Illinois relating to safeguards against fires from any source in mines.<sup>2</sup> A certified mine examiner was to be employed at every mine,<sup>3</sup> and his duty was that of making

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at any mine employing not more than ten men to any person recommended to the Board by the state mine inspector of the district. Such person was, however, to be a citizen of the United States and have at least one year's experience in operating a steam engine. His permit applied only to the mine for which it was issued.

<sup>1</sup> The conditions under which certificates were issued under the act of 1895 were the same as for hoisting engineers under the same act. See footnote on page 1 of that section. Under the 1899 act, mine examiners were required to be citizens of Illinois, instead of citizens of the United States, and were also to be at least twenty-one years of age. After the law of 1899 required mine examiners to be citizens of Illinois, the mine operators proposed that the original citizenship qualification be restored; but the miners' union opposed the change, since in case of a strike the operators could import men from Kentucky or Indiana, or any other state, to serve as mine examiners in the place of those who had struck. See United Mine Workers of America, District 12, *Proceedings of the Eighteenth Annual Convention* (1907), p. 38. The revised mining code of 1911, however, again required mine examiners to be citizens of the United States.

<sup>2</sup> The amendment of 1913 required mine examiners to possess a knowledge of first aid to the injured and of mine-rescue methods, in addition to the former requirements.

<sup>3</sup> The act of 1907 permitted the operator to employ a capable uncertificated man for a period not longer than thirty days in case of an emergency when no



a careful examination of the mine before the men were permitted to enter it. First of all, he was to see that the air current was traveling in its proper course and in proper volume.<sup>1</sup> He was then to inspect all places where men were expected to pass or to work, and was to observe whether there were any recent falls or obstructions in rooms or roadways, or accumulations of gas, or other unsafe conditions. He was to place a conspicuous mark as notice to all men to keep out of such working places as were found to be dangerous,<sup>2</sup> and was to report his discovery to the mine manager.<sup>3</sup> The amendment of 1913 stated definitely that mine examiners should examine with special care all roadways leading to escape-

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certified examiner was available. This period was reduced to seven days in 1911 but the district state inspector might approve such an arrangement for an additional twenty-three days. The 1911 act prohibited managers of mines employing more than twenty-five men from acting as mine examiner at one and the same time. Such a provision had been proposed as early as 1902 by the Illinois Mine Managers' Convention with the expectation that the change would result in better ventilation and sanitary conditions in the mines. See *Mines and Minerals*, April, 1902, p. 412.

<sup>1</sup> No method was prescribed for determining whether the proper quantity of air was in circulation, but in 1905 an act was passed requiring the mine examiner to measure the air current passing in the last cross-cut or break-through of each pair of entries or in the last room of each division in a long-wall mine and at all other points where he deemed it necessary. He was to keep a record of these daily readings in a book kept for the purpose (*Laws of 1905*, p. 324).

<sup>2</sup> In describing the places at which he should place a conspicuous mark as notice to all men to keep out, the law of 1899 and the amendment of 1907 used the words "or other unsafe conditions" and "or any dangerous conditions." The revision of 1911 omitted these blanket provisions and required him to mark only working places in which there were recent falls or dangerous roof or dangerous obstructions. The courts interpreted this change literally. "It would be unreasonable to suppose that the legislature did not intend to change the operation of the law when these words were omitted" (*Mygatt v. Southern Coal and Mining Co.*, 180 Ill. App. 150, 155 [1913]). The amendment of 1913 substituted the term "dangerous conditions" for the term "dangerous obstructions," on recommendation by the Mining Investigation Commission. See 1913 Report in *House Journal*, 1913, p. 722.

<sup>3</sup> In order to keep men out of the mine whose working places were shown by his examination and record to be dangerous, the revision of 1911 required the mine examiner to take their entrance checks into his possession and give them to the mine manager before the men were permitted to enter the mine in the morning.

ment shafts or other openings for the safe exit of men to the surface. A book was to be kept in the mine office containing the mine examiner's daily record of the condition of the mine, and this record was to be made each morning before the miners entered the mine.

#### QUALIFICATIONS AND DUTIES OF MINE MANAGERS

In the *Second Biennial Report* of the Bureau of Labor Statistics, 1882, attention was called to the need of better mine managers in the coal mines of the state, and it was proposed that they be required to possess greater technical knowledge before being employed. No legislation upon this subject was enacted, however, until 1891. As stated in section 1, the purpose of the law then enacted was "to secure greater efficiency in the management of coal mines, and a higher standard of qualifications in those who have immediate responsibility for the health and safety of persons employed in coal mines." In order to accomplish this purpose, it was declared unlawful for any person, after January 1, 1892, to act as mine manager<sup>1</sup> at any coal mine equipped for shipping coal by rail or water or whose output was twenty-five tons or more per day, unless he held a certificate as to his qualifications from the state board of examiners.<sup>2</sup> Operators were forbidden to employ uncertificated mine managers.<sup>3</sup>

The revision of 1899 stated more specifically than earlier laws the qualifications required of mine managers. Applicants for certificates of competency as mine managers were to be citizens of the

<sup>1</sup> Under the act, the term "mine manager" applied to any person charged with the general direction of underground work, or of both underground and top work, of any coal mine, and who was commonly designated as mine boss, foreman, or pit boss.

<sup>2</sup> The conditions under which certificates were issued were practically the same as those described in the footnote on page 322 dealing with the qualifications and duties of hoisting engineers.

<sup>3</sup> As in the case of hoisting engineers and mine examiners, in case of emergency when no certificated mine manager was available, the act of 1899 permitted the operator to employ an uncertificated mine manager for a period not longer than thirty days. This period was likewise shortened in 1911 to permit their employment for only seven days, but the state mine inspector might approve such an arrangement for an additional twenty-three days.

state of Illinois, and at least twenty-four years of age. They were to pass such an examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appliances, the use of surveying and other instruments, the properties of mine gases, the principles of ventilation, and the specific duties and responsibilities of mine managers as the State Mining Board might see fit to impose.

The mining law of 1899 also set forth in some detail the duties required of mine managers. The mine manager was to instruct the employees in their respective duties, and was to visit and examine the various workplaces as often as practicable. He was to see to it that mine timbers of proper dimensions and in sufficient quantity were delivered to the "usual" place when demanded by the miners. He was to keep careful watch over the ventilating apparatus and the air currents in the mine, and once a week was to measure the air current with an anemometer at the inlet and outlet and keep a record of such measurements for the information of the mine inspector. Once a week he was to make a special examination of roadways leading to the escapement shaft, and remove any obstructions found. He was to give special attention to the storage and handling of explosives in the mine, and was to have all dangerous places above or below properly marked. In case safety lamps were used for working in or examining a mine, they were to be in charge of the mine manager or some other competent person. In dusty mines the mine manager was to see that all haulage roads were frequently and thoroughly sprinkled. It was his duty to see that the hoisting apparatus was in good condition. Each morning before the men were allowed to go to work he was to have the mine examined and see that the top and bottom men were on duty, and that sufficient lights were maintained at both top and bottom when men were being hoisted or lowered. The mine manager or his agent was to keep a record of all men lowered into the mine and was to remain on duty until all were hoisted out.<sup>1</sup>

<sup>1</sup> The mining law of 1911 materially enlarged the duties of mine managers and expressed them much more clearly and explicitly. The above enumeration, however, gives a general idea of the importance and complexity of the duties imposed by state law.



The revised mining law of 1911 provided for a second class of mine managers, who were permitted to serve in that capacity only in mines employing ten men or less. "Mine managers, second class," were to have the same personal qualifications and experience as required of mine managers, but they were to be examined concerning fewer subjects, namely, their experience in mines and the management of men, their knowledge of coal-mining, mine ventilation, and the mining laws of Illinois, and the duties and responsibilities of second class mine managers.

#### QUALIFICATIONS AND DUTIES OF MINERS

The act of 1889 made it unlawful for any coal-mine operator to employ persons underground whose duties might involve contact with inflammable gases or the handling of explosives who were not experienced in such duties, unless all such employees were placed under the immediate charge and instruction of such a number of competent men as to secure the safety of other persons employed in the mine.

In 1897, an act<sup>1</sup> was passed requiring every person desiring to work by himself in a room in any coal mine in Illinois to produce satisfactory evidence to the mine manager that he had worked at least two years with, or as, a practical miner. No person unable to satisfy the mine manager of his competency was to be allowed to mine coal unless working with some competent coal-miner. Mine managers who employed miners contrary to the provisions of this act were to forfeit their certificates of competency.

Both of these early laws were unenforceable, hence the legislative committee of District 12, United Mine Workers of America, requested<sup>2</sup> the introduction of a bill which provided for a certificating system for coal-miners somewhat like that used for mine managers, mine examiners, and hoisting engineers.<sup>3</sup> A law of this

<sup>1</sup> *Laws of 1897*, p. 268.

<sup>2</sup> United Mine Workers of America, District 12, *Proceedings of the Eighteenth Annual Convention* (1907), p. 37.

<sup>3</sup> In 1899 a bill (H.B. No. 15) had been introduced into the General Assembly providing for the certification of miners who could satisfy the Board of Examiners



kind had previously been enacted in Pennsylvania, and had been of considerable aid to the union in preventing the supplanting of union by non-union men in its struggles with the anthracite operators. In view of this fact, and also because of the greater safety such a law would provide, John Mitchell, president of the United Mine Workers of America, recommended that the Pennsylvania law be modified to meet the conditions in the bituminous fields and asked the miners in every district to try to obtain its enactment. Mr. Mitchell assisted in drafting the bill introduced in Illinois.<sup>1</sup> Another reason why the miners desired such a law was to prevent a gradual undermining of working conditions. If such a law were enacted, only "practical" miners might be employed in the mines. It was asserted that the operators were gradually replacing "practical" miners by "impractical" miners, because the practical miner, being a member of the union and having had experience in mining, could not easily be imposed upon. Many of the "impractical" men could not speak English, and were given preference because they were more easily intimidated and taken advantage of in the matter of wage payment; thus the standard set by agreement between the union and the operators was undermined.<sup>2</sup> The bill was opposed because of the controlling influence it would give the miners' union and because of fear that there would be an actual shortage of qualified miners.<sup>3</sup>

The bill proposed by the union was passed at the special session

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that they had been engaged as practical coal-miners in Illinois for at least five years next preceding the passage of the bill. The miners' union opposed the five-year provision on the ground that it might disrupt their organization. See United Mine Workers of America, District 12, *Proceedings of the Tenth Annual Convention* (1899), p. 43. One important reason for enactment of the law was the advantage it would give the union, but if five years' experience were required too large a proportion of the union members would be disqualified for certificates.

<sup>1</sup> Statement by Mr. John H. Walker in Illinois State Federation of Labor, *Proceedings of the 1910 Convention*, p. 141. See also his statement in *Proceedings of the 1922 Convention*, p. 142.

<sup>2</sup> *United Mine Workers' Journal*, January 26, 1911.

<sup>3</sup> See David Ross, in the *Mining World*, February 11, 1911, p. 356.

of 1907-8,<sup>1</sup> and provided that no person might be employed as a miner<sup>2</sup> in any coal mine of the state without first having obtained a certificate of competency from a Miners' Examining Board of some county of the state.<sup>3</sup> Persons employed at least two years in the mines when the act became effective were entitled to certificates permitting them to work as practical miners, and those learning the occupation might work with miners holding certificates.

It appears that this law was quite effective in giving the union a monopoly of mining labor in the state. The official organ of the Illinois Coal Operators' Association stated that during the great strike of 1910 the qualification act made it impossible to import even competent miners from any other state. The examiners appointed under the act were invariably members of the union, and

<sup>1</sup> *Laws of 1907-8*, p. 90.

<sup>2</sup> Includes only men who work in a place or room at the coal face in mines.

<sup>3</sup> A Miners' Examining Board, consisting of three experienced and skilful coal-miners actually engaged in the business of mining coal, was to be appointed by the circuit judge for each county in the state in which coal-mining was carried on. In order to obtain a certificate of competency a miner must have had not less than two years' practical experience as a miner or with a miner, and answer orally in an intelligent and correct manner at least twelve practical questions on mining propounded to him by the Board. An examination fee of one dollar was charged each applicant, and the salaries and expenses of the Board members were to be paid from the sums collected. No funds were to be paid out of the state treasury for this purpose.

In 1909 the Miners' Qualification Law became involved in a bargain made between the miners and the operators. The miners were afraid that the law as it then stood was unconstitutional in that power to appoint the examining boards was vested in circuit judges. An amendment was introduced giving this power to the county judges. They also proposed to restore a feature eliminated from the bill passed two years previously, namely, a provision allowing only one uncertificated person to work with each certificated miner while learning the trade. The operators opposed both changes. They stated that the miners wanted the appointive power placed in the hands of the county judges since those officials would be more amenable to the miners' wishes than would circuit judges. The limitation upon apprentices was opposed because it would restrict the labor market (*Fuel*, XII, No. 23 [April 6, 1909], 623). The operators withdrew their opposition to these changes in exchange for the miners' support of the bill to create a Mining Investigation Commission.

would recognize only union miners as qualified to mine coal. Because of its effectiveness in preventing the importation of miners from without the state, the operators determined to test the constitutionality of the law.<sup>1</sup> They were not successful, however, in having it declared unconstitutional.<sup>2</sup>

The miners' union was not entirely satisfied with the operation of the law in spite of its utility to them in the 1910 strike. In the first place, since so many boards conducted examinations, the examinations given were not uniform throughout the state. More important than this, however, was the fact that few of the boards were self-sustaining and the union had to pay the deficit in each case in order to secure statewide operation of the law.<sup>3</sup> The legislative committee of District 12 therefore submitted a bill which abolished the county boards and provided for a State Miners' Examining Board in their stead. The bill was unanimously approved and its passage recommended by the Mining Investigation Commission, although it was not introduced at the instance of the Commission.<sup>4</sup> The bill as enacted authorized the governor to appoint three practical, skilful miners of at least five years' continuous experience<sup>5</sup> to serve on a State Miners' Examining Board for terms of three years at salaries of \$1,500 a year each. The board was to hold an examination once in each calendar month in at least twelve places located most conveniently with reference to the coal-mining districts of Illinois, so that all persons so desiring might be examined as to their competency. The examinations were to be of

<sup>1</sup> See *Fuel*, October 25, 1910, p. 1154.

<sup>2</sup> In the case of *People v. Evans*, 247 Ill. 547, filed December 21, 1910, the Illinois Supreme Court declared the entire act constitutional except for that part which provided that money paid into the state treasury by the miners' examining boards should be paid out again on warrants issued by the county judges.

<sup>3</sup> United Mine Workers of America, District 12, *Proceedings of the Twentieth Annual Convention* (1913), p. 88.

<sup>4</sup> Report, *House Journal*, 1913, p. 725. The Mining Investigation Commission also approved a bill appropriating the sum of \$3,355.14 to District 12, to reimburse the union for amounts advanced to secure operation of the old law.

<sup>5</sup> Such persons must have been actually engaged in coal-mining in Illinois continuously for twelve months next preceding their appointment.



a practical nature and were to be conducted in the English language.<sup>1</sup>

Although the first law governing mining operations, and every succeeding law, prohibited miners from injuring the mining machinery or doing other acts which would endanger the lives of the workers or the mine property, very little was said in the earlier laws concerning the positive duties of the miners. Such duties were left to custom, agreement between the miner and the operator, or the decision of the operator. As regards one point, namely, the propping of the roof with timbers furnished by the operator, the courts held that the law requiring the operator to furnish such timbers implied that the miner should use them in making his workplace safe.<sup>2</sup> This duty, however, was not specifically written into the statute until the revision of 1899. The revision of 1911 made it the duty of the miner to sound and examine thoroughly the roof of his working-place before commencing work; and if he found loose rock or other dangerous conditions, he was not to work there except to make such dangerous conditions safe (sec. 23). The amendment of 1923 required the miner to "have" the necessary tools with which to make his workplace safe.

#### MINING EDUCATION

Although the state required the examination of persons desiring to become mine inspectors, mine managers, mine examiners, hoisting engineers, and miners, nothing was done until 1909 and the

<sup>1</sup> The operators have attempted from time to time to secure amendments to the Miners' Qualification Act which would serve to lessen control by the union. In 1923 they introduced an amendment (S.B. No. 416) which provided that the board of examiners should consist of one miner, one mine owner, and one person neither a miner nor a mine owner but who possessed knowledge of coal-mining. Proper manipulation of appointments under this amendment would give control to the operators. The bill also provided that in case of a coal shortage, and upon proclamation of the governor, the mines might be operated by uncertificated miners. This would have permitted the importation of strike-breakers in case of coal strikes in Illinois. Organized labor succeeded in defeating the bill (Illinois State Federation of Labor, *Proceedings of the 1923 Convention*, p. 202).

<sup>2</sup> *Consolidated Coal Co. v. Scheller*, 42 Ill. App. 619 (629) (1891).



years immediately following to aid them in preparing for these examinations. The General Assembly then provided for the establishment and maintenance of a department of mining engineering at the University of Illinois.<sup>1</sup> This department was to offer such courses of instruction relating to the science and practice of mining as would best serve to train young men for efficient work in the various phases of the mining industry. In addition to this work of instruction, the department was to concern itself, so far as practicable, with the development and dissemination of such scientific facts as were likely to be of service in improving the practice of mining, with reference to efficiency in operation, to the security of life in the mines, and to the conservation of the fuel and other mineral resources of the state.

As has been mentioned before, the Cherry mine disaster, which occurred later in the year 1909, awakened widespread interest in the problem of safety in mining; and one of the bills prepared by the Mining Investigation Commission and submitted to the special session of the General Assembly of 1909-10 provided for an extension of educational work very similar to that provided in the above law, but applying especially to the coal-miners themselves. Miners' and mechanics' institutes were the means to be used in this work. The principal reasons offered by the Mining Investigation Commission in favor of the establishment of such institutes were as follows:<sup>2</sup>

1. The state of Illinois required men aspiring to become mine inspectors, mine managers, mine examiners, hoisting engineers, and miners to submit to an educational test before permitting them to work. The state should, therefore, assist men to prepare themselves for these prescribed tests.

<sup>1</sup> *Laws of 1909*, p. 43. As early as 1871, the miners of the state were interested in the establishment of a mining school. In that year Representative Hinchcliffe, a miner representing St. Clair County in the General Assembly, introduced a resolution calling upon the House Committee on Education to inquire into the expediency and utility of establishing a school of mines for the State of Illinois. See *House Journal*, 1871, p. 317. Nothing further was done, however.

<sup>2</sup> The Report of the Commission may be found in *House Journal*, Special Session of 1909-10, pp. 94-98.

2. In mining communities the boys usually left the public schools at an early age, and later, when they wished to qualify for responsible positions about the mines, they were handicapped by this lack of early training. The existing system of public instruction made no provision for the further training of such persons.

3. Each year thousands of men came into Illinois from the agricultural districts of Southeastern Europe, and these men, though they had no knowledge of mining and were unacquainted with its dangers, went to work in the mines. Since they did not usually speak or read English, books available for English-speaking men were not usable by them, and some method of instructing them in their own language would have to be used.

4. The difficulties and dangers of mining in Illinois were increasing in the parts of the state where the mines were becoming more gaseous. Such mines were especially dangerous to men who had always worked in the non-gaseous mines of the state. These men should therefore be taught to appreciate the dangers of gas and dust.

5. The proposed miners' and mechanics' institutes were not experimental, but had been tested and found practicable in other states and countries. In Nova Scotia considerable sums were spent for work similar to that proposed in this bill, and the fatalities in coal-mining were remarkably low.<sup>1</sup> The Director of Public Instruction for Nova Scotia felt certain that the general diffusion of technical knowledge among miners was largely responsible for this low accident rate. In Pennsylvania and other states, such work had been successfully carried on for several years.

The bill recommended by the Mining Investigation Commission was passed at the special session of the General Assembly, 1909-10. Responsibility for administration of the institutes was vested in the trustees of the University of Illinois, and an appropriation of \$15,000 was made to carry on the work. The attorney-general,

<sup>1</sup> Table XI presents actual data concerning coal-mine fatalities in Nova Scotia and Illinois for the years 1908 to 1912, and shows that the record in Illinois compares very favorably with that of Nova Scotia except for the year 1910, when the Illinois data include lives lost in the Cherry mine disaster. Although these data do not sus-

however, ruled that the act was unconstitutional, as the subject of it was not mentioned in the governor's call for the special session of the General Assembly. The governor, therefore, did not approve the act.

In 1911, upon recommendation by the Mining Investigation Commission, the General Assembly again passed the bill, and this time it was approved by the governor.<sup>1</sup> While this law authorized the establishment of the institutes, it carried no appropriation. In order to overcome this difficulty, a second bill, making an appropriation of \$15,000 for carrying on the work, was introduced into the General Assembly. It passed the Senate and two readings in the House, but failed of final passage. Since no funds were available, it was impossible to begin the work authorized by the act. This, however, was provided for in 1913, when the General Assembly appropriated<sup>2</sup> \$15,000 per annum to the trustees of the University of Illinois for the establishment and maintenance of miners' and mechanics' institutes. The first section of the 1911 act stated that miners' and mechanics' institutes were to be established "in order to prevent accidents in mines and other industrial plants

tain the point made by the Commission with regard to the excellence of the Nova Scotia record, the fact remains that miners' and mechanics' institutes might reasonably be expected to improve the Illinois record.

TABLE XI  
COAL-MINE FATALITIES IN NOVA SCOTIA AND ILLINOIS, 1908-1912\*

YEAR	LIVES LOST FROM ALL CAUSES		PER 1,000 MEN EMPLOYED		PER 1,000,000 TONS PRODUCED	
	Nova Scotia	Illinois	Nova Scotia	Illinois	Nova Scotia	Illinois
1908.....	43	183	3.3	2.6	6.09	3.71
1909.....	34	213	2.8	2.9	5.81	4.33
1910.....	31	406	2.8	5.4	5.05	8.33
1911.....	36	157	2.8	2.0	5.17	3.13
1912.....	34	180	2.6	2.3	4.45	3.13

\* Data for Nova Scotia taken from Department of Public Works and Mines, *Annual Report of the Mines* (1915), p. 115. Data for Illinois taken from the *Annual Coal Report*.

<sup>1</sup> *Laws of 1911*, p. 329.

<sup>2</sup> *Laws of 1913*, p. 95, ninety-fifth item, which provided for the general expenses of the state government.



and to conserve the resources of the state, by the education and training of all classes of workers in and about the mines and other industrial plants of the State." In order to promote the technical efficiency of such persons and to assist them

to better overcome the increasing difficulties of mining and other industrial employments . . . any and all means may be employed which promise to give desired results such as bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, or meetings for the reading and discussion of papers [sec. 2].

The board of trustees of the university authorized the department of mining engineering to proceed with the work, and on January 1, 1914, Mr. R. Y. Williams was appointed director of the new project. The work of the institutes was short-lived, since in 1915 Governor Deneen vetoed an appropriation for maintaining them.

In 1917, the Department of Mines and Minerals, which was created by the Civil Administrative Code, was given power in words almost identical with those quoted above, to carry on such educational work among the miners, but practically nothing has been done along this line by the Department.

#### MINE VENTILATION

In addition to the demand that escapement shafts be provided in all coal mines, the coal-miners in the sixties demanded that better ventilation be provided. As in the case of escapement shafts, no legislation was obtained until the General Assembly passed the law of March 27, 1872, carrying out the mandatory provision of the new state constitution of 1870 which required legislation upon the subject of both mine ventilation and escapement shafts. This law required the mine operator to provide an adequate amount of ventilation by forcing, when practicable, the circulation of pure air through to the face of every working place in the mine, so that the mine should be free from standing gas and from danger to health and life by reason of any noxious gas.<sup>1</sup>

<sup>1</sup> Any suitable appliance might be used to produce this ventilation. The law of 1883, however, prohibited the use of furnaces for purposes of ventilation which emitted smoke into shafts or slopes which constituted the only means of ingress or egress or the only means provided for furnishing air to persons employed in the mine.



In specifying the amount of air to be supplied in coal mines, the earlier laws did not take into consideration the fact that an allowance should be made for animals used in mining, or the fact that the amount of air needed varies from mine to mine and that provision should be made for increasing the amount supplied if conditions demanded it. In 1885, however, these deficiencies were dealt with. In addition to 100 cubic feet of air per minute to be supplied for each man employed in coal mines,<sup>1</sup> 600 cubic feet per minute was to be supplied for each animal.<sup>2</sup> These amounts might be increased at the discretion of the inspector according to the character and extent of the workings, or the amount of powder used in blasting. The inspector was also authorized to remove men to other parts of the mine or from the mine altogether in case he found them working without sufficient air or under unsafe conditions. The mine inspector, however, inspected a given mine at infrequent intervals, and the law at this time did not provide for debarment of men from places found to be unsafe at the regular morning inspection.<sup>3</sup>

Although the mining code at this stage of its development required that a certain volume of air be supplied for each man and each animal working in a given mine, it did not guarantee that all workers in the mine would receive air of reasonable purity. An amendment passed in 1887 was designed to meet this difficulty. It provided that the currents of air in mines should be split so as to give a separate current to at least every one hundred men at work, and gave the inspector discretionary power to order a separate current for a smaller number of men if special conditions made it necessary.

Later acts, beginning with that of 1889, required that doors

<sup>1</sup> This definite requirement was substituted in 1879 for the phrase "adequate amount of ventilation" of the earlier law.

<sup>2</sup> This amount was reduced to 500 cubic feet per minute in 1911. The 1911 act also required that in gaseous mines not less than 150 cubic feet per minute be supplied for each person in the mine. The 1899 act provided that air currents for ventilating mine stables should not pass into the intake air current for ventilating the working parts of a mine.

<sup>3</sup> This was taken care of by the 1887 act.

used for conducting air currents be so constructed as to close automatically when opened, and be made sufficiently tight to obstruct such air currents in an effective manner. Attendants whose duty it was to open and close the doors when trips of cars were passing were required at all the principal doorways.<sup>1</sup> The location and manner of construction of stoppings, curtains, and brattices were also carefully regulated.

In order to insure good ventilation in the mines, the act of 1899 prohibited the opening of rooms in advance of the air current or making of cross-cuts more than 60 feet apart. With respect to the latter provision discretionary powers have since been granted. State mine inspectors were authorized by the revision of 1911 to permit a greater distance between cross-cuts in case of "faults";<sup>2</sup> and the Department of Mines and Minerals was authorized by the act of 1917 to permit the leaving of a blind pillar between not less than every three rooms if conditions were such that in the mine inspector's judgment this method was equally safe and more advantageous than to require cross-cuts to be made every 60 feet.<sup>3</sup>

An amendment of 1913 contained an important new provision which required the ventilating fan to be run both day and night at all mines employing more than one hundred men underground, and at all mines generating fire damp. At mines employing fewer than

<sup>1</sup> The term "principal doorways" was not defined, but the act of 1911 overcame this difficulty by requiring the employment of an attendant at all doors through which three or more drivers were hauling coal on any one shift. In case of especially dangerous conditions the mine inspector was authorized to require the employment of an attendant at doors through which fewer than three drivers passed.

<sup>2</sup> In 1925, the State Mining Board was authorized to grant permission to make cross-cuts more than 60 feet apart; but when such consent was given, means had to be provided within 30 feet of the face to furnish not less than 200 cubic feet of air per man per minute and not less than 500 cubic feet per animal per minute employed therein. Such permission might be granted only in case of faults or for the purpose of experimenting with or testing some new method or plan of mining coal. Any new method of mining during the experimental stage was to be under direct supervision of the Board.

<sup>3</sup> This provision was inserted upon recommendation by the Mining Investigation Commission. See report, 1917, in *House Journal*, 1917, p. 1168.

one hundred men underground, the fan was to be run at its usual speed for six hours before the men entered the mine to work.<sup>1</sup>

Several other laws have been passed designed to prevent contamination of mine air. In order to rid the mines of smoke and bad odor caused by the use of inferior oils for illuminating purposes, the act of April 30, 1895,<sup>2</sup> provided that only a pure animal or vegetable oil, or other oil as free from smoke as a pure animal or vegetable oil, and not a product or by-product of "rosin," might be used for illuminating purposes in Illinois coal mines. These oils were to be tested by the state mine inspectors, and standards were prescribed to which they had to conform.

This law proved to be ineffective;<sup>3</sup> therefore the Mining Investigation Commission in its revision of the mining code in 1911 included provisions designed to overcome this difficulty. The State Mining Board was authorized to draw up specifications to which all illuminating oils used in coal mines should conform. Instead of requiring the state mine inspectors to test all such oils previous to sale, the new law authorized them to take samples of, and send to the State Mining Board to be tested, any oil they suspected did not conform to the specifications adopted.

With regard to the same problem, the Mining Investigation Commission in 1913 considered the advisability of regulating the use of gasoline motors in mines. Complaints made to the Commission had stated that gasoline motors then in use generated fumes which were unwholesome and offensive to the men working in the mines. Experts were summoned to testify before the Commission, miners and operators were heard, a special committee was appointed to investigate one of the worst cases reported, and letters were sent to miners and operators where gasoline motors were in use in Illinois. The conclusion reached by the Commission was that most of the evils complained of resulted either from a defective machine or an improper use of it, that the gasoline motor was still in the experimental stage and should be given opportunity to prove

<sup>1</sup> These provisions did not apply to mines employing ten men or less.

<sup>2</sup> *Laws of 1895*, p. 256.

<sup>3</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 6.



its value, and that the existing law was adequate to secure its removal from the mines if it proved injurious to the health of the mine employees. The Commission, therefore, recommended no change in the law.<sup>1</sup> In 1923, however, the miners secured the adoption of an amendment which required internal combustion engines to be equipped with a device which would eliminate fumes if the same were found to be injurious to the health of the employees.<sup>2</sup>

#### ESCAPEMENT SHAFTS

One of the chief demands of the coal-miners during the decade of the sixties was the enactment of a law requiring mine operators to provide a second means of egress from their mines. One may readily understand why this demand should have been made. Men working underground naturally do not like to be caught with no means of escape to the surface. Exit by the one shaft that was ordinarily provided might be blocked in many different ways. The sides of a shaft might cave in, thus making its use impossible. Falls of the roof might cut off access to it. Breakdown of the hoisting machinery or a fire at the top of the shaft might likewise accomplish the same result. Escape by some other route was thus of utmost importance.

Until the constitutional convention of 1869-70, the operators succeeded in defeating the efforts of the miners to secure the enactment of a law requiring a second means of egress from their mines, but, as we have already seen, the new state constitution contained a provision requiring the General Assembly to enact such a law. This was done in the act of 1872, which compelled owners of coal mines worked by means of a shaft, slope, or drift, in which more than fifteen miners were employed,<sup>3</sup> to furnish at least two distinct

<sup>1</sup> Report of the Commission in *House Journal*, 1913, pp. 721-22.

<sup>2</sup> *Laws of 1923*, p. 449, sec. 14p.

<sup>3</sup> An act passed in 1877 required a second means of egress from all mines employing more than ten miners in each twenty-four hours. Beginning with the 1877 act, owners of contiguous mines whose workings had been driven into contact with one another were required to maintain a roadway between their mines. A law passed in 1883 abolished the exemption of small mines from the necessity of providing an escapement shaft. In 1889, mines employing six men or less were exempted



means of ingress and egress for all persons working in the mine. This might be accomplished either by making a proper connection with some contiguous mine<sup>1</sup> or by constructing an escapement shaft connecting with every vein of coal worked in the mine,<sup>2</sup> and separated from the main shaft by such extent of natural strata as in the opinion of the mine inspector would secure safety to the miners.<sup>3</sup> The time allowed for the construction of such escapement shaft was to be one year for each 100 feet the shaft had to be sunk.<sup>4</sup>

from the requirement that an escapement shaft be provided, but the revised mining law of 1899 again required all mines, regardless of the number of men employed, to be provided with two distinct and available means of egress to all persons employed therein.

<sup>1</sup> In 1887, a law was passed which provided that in all cases where the shaft of one mine was used as an air or escapement shaft for another mine, no owner or operator might close or obstruct his shaft or workings so as to prevent their use as an air or escapement shaft without giving one year's notice to the other owner or operator of his intention to abandon his mine. The operator continuing the working of his mine was to bear the expense of keeping such abandoned workings in repair.

<sup>2</sup> Later laws, beginning with that of 1883, regulated the dimensions of passageways leading to escapement shafts.

<sup>3</sup> The law of June 16, 1887, required mine operators to notify the district mine inspector before beginning work upon an escapement shaft so that he might determine what constituted a suitable distance for its separation from the main shaft. This distance might not be less than 300 feet without the consent of the inspector, nor more than 300 feet without the consent of the operator. The mine inspector was to see that escapement shafts were begun in time to secure their completion within the time specified by law. The revision of 1911 provided that in all mines sunk after the passage of the act, the distance between the main shaft and the escapement shaft should not be less than 500 feet nor more than 2,000 feet, the precise distance being agreed upon by the inspector of the district and the owner of the property. In mines employing ten men or less, the distance between the hoisting and the escapement shaft was not to be less than 250 feet.

<sup>4</sup> The time allowed for constructing escapement shafts was shortened from time to time until 1899, when three months was fixed as the maximum time allowed for constructing shafts 200 feet or less in depth, six months for those between 200 and 500 feet, and nine months for all other mines, slopes, or drifts, or connections with adjacent mines. These provisions have remained unchanged except that for mines employing ten men or less the revision of 1911 fixed the maximum time at six months from the time of hoisting coal.

The Illinois Bureau of Labor Statistics in 1886 urged that persons opening new

Employment of any person in any mine affected by these provisions was prohibited until they had been complied with.<sup>1</sup>

In order to facilitate safe and rapid exit of men in case of danger, a law passed in 1885 required the operator to equip escapement shafts with adequate hoisting apparatus or with stairways or ladders having landing places or platforms at least every 20 feet from the bottom to the top.<sup>2</sup> The law of June 16, 1887, provided that stairways should not be built at an angle greater than 45 degrees. They were to be partitioned off from the main airway and be equipped with substantial handrails and platforms. No accumulations of ice were permitted in any escapement shaft, nor any obstructions to travel upon any stairways or ladders. The revision of 1899 required passageways to the escapement to be so graded and drained as to prevent sufficient accumulations of water to obstruct the free and safe passage of men. Conspicuous signboards were to be placed at all points where this passageway was intersected by other roadways or entries, indicating the direction it was necessary to take to reach the place of exit. An amendment

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coal mines be required to sink two shafts simultaneously and to make underground connection between them at once, before proceeding to lay out the works. This would require a greater outlay, but would prevent irresponsible persons from embarking in the business without sufficient capital to carry it through. At that time it often happened that a company would exhaust its funds in sinking the first shaft and be forced to rely upon the profits of the business to provide funds for sinking the second. Such profits frequently did not materialize, but in the meantime the men were forced to work under perilous conditions. *Fourth Biennial Report* (1886), p. 548.

<sup>1</sup> The revised mining law of 1899 prohibited the employment of more men in a mine for any purpose at any one time than in the judgment of the inspector were absolutely necessary for completing the second means of egress, but the total number employed was not to exceed ten in any case. The 1911 act stated specifically that not more than ten men were to be employed "underground." The term "mine" as defined in 1899 and 1911 included both surface and underground workings.

<sup>2</sup> A law passed in 1919 provided that in all coal mines more than two hundred feet in depth, opened on or after July 1, 1919, the escapement should be equipped with both a cage and a stairway. If, however, the main shaft was equipped with a stairway, none was required in the escapement shaft. Previous to this time the escapement shaft was required to have only a stairway.

of 1915 provided that where an escapement way was connected with a compartment in which coal was hoisted in such manner that men using the escapement way were endangered by falling coal or by themselves falling into the hoisting compartment, the state mine inspector was given power to order suitable protection against such dangers.

#### MINE FIRES AND EXPLOSIONS<sup>1</sup>

In Illinois the problem of fires and explosions in mines did not attract great attention until after 1903 when the deeper-seated coal seams of the southern part of the state were first opened, but more especially after the Cherry mine disaster in 1909, which stirred the whole state to immediate action. In earlier laws, however, we find an occasional provision designed to lessen these dangers. Some of these provisions are discussed under other headings but they will here be presented as parts of a series of enactments dealing with this particular aspect of mine labor legislation.

The first law for the protection of coal-miners, that of 1872, required that in case furnaces were used for ventilating purposes in mines they should be so constructed as to prevent the communication of fire to any part of the works, by lining the upcast with incombustible material for a sufficient distance from the furnace (sec. 4). Another provision required bore holes to be driven 20 feet in advance of the working face, and, if necessary, on both sides, when approaching old workings suspected of containing inflammable gases (sec. 5). Miners were prohibited from carrying lighted lamps or matches into places that were worked by the light of safety lamps (sec. 15). In case of loss of life or serious personal injury resulting from an explosion (or other accident), the operator was to notify the mine inspector who was to go to the scene of the accident and make such suggestions and render such assistance as he deemed necessary for the safety of the men (sec. 9).

In addition to the foregoing provisions, the act of 1879 required that all working places where fire damp was known to exist be ex-

<sup>1</sup> By "explosions" is meant explosions of gas, coal dust, or powder magazines in mines, not the blasting of coal, although the latter often ignites gas or coal dust and thereby causes explosions.



aminated every morning with a safety lamp by a competent person, before any other persons were allowed to enter.<sup>1</sup>

The second amendatory act of 1883 was the first to recognize the danger of fires at the top of the shaft. Buildings around the mine shaft were to be roofed and sided with fireproof materials, and operators were required to provide a steam pump and a sufficient supply of water and hose for use in these buildings in case of fire.<sup>2</sup>

The act of 1889 prohibited the employment of inexperienced men underground whose duties might involve contact with inflammable gases (or the handling of explosives) unless they were placed under the immediate charge and instruction of such a number of competent men as would secure the safety of all persons employed in the mine. In case the galleries, roadways, or entries of any mine were so dry as to become filled with dust, the operator was required to have such roadways regularly and thoroughly sprinkled as a precaution against coal-dust explosions (sec. 4).

In case a mine inspector discovered fire damp in any mine making the use of safety lamps advisable, the act of 1899 required the coal operator to provide such lamps for use in his mine upon receiving notice from the mine inspector that their use was necessary. All blasting powder and other explosive materials were to be stored in a fireproof building on the surface, located at a safe distance from all other buildings. Explosives were not to be stored in mines, and limits were prescribed as to the quantity of explosive a workman might have in the mine at one time.

The Shot-Firer Law of 1905 permitted no one except shot-firers to be in a mine when blasting was being done. If this provision had been observed, there would have been no one in the mine whose duty it was to extinguish such fires as might occur. The employment of fire-runners was absolutely necessary in the gaseous mines of southern Illinois; consequently, an amendment passed

<sup>1</sup> Further development of this important provision is discussed later in this section.

<sup>2</sup> This type of regulation was carried still further in later laws.



in 1907 permitted their presence in the mines while blasts were being fired.<sup>1</sup>

The foregoing provisions, taken cumulatively, constituted an important body of law whose purpose it was to protect men and property from the disastrous effects of mine fires and explosions. That it was inadequate, especially as regards mine fires, was made strikingly patent in 1909 by the worst mine tragedy in the history of the state. On November 13 of that year 259 men lost their lives in a coal mine at Cherry, Illinois, when a mine car loaded with baled hay caught fire from a torch, and by setting fire to the mine timbers cut off all means of escape.<sup>2</sup> Proper fire-fighting equipment and adequate means of communication within the mine would probably have prevented this loss of life. At any rate, the Mining Investigation Commission, which had been appointed only a short time before, began the work of drafting bills which, if enacted into law, would render highly improbable the recurrence of such a disaster. Three bills were prepared and introduced into the special session of the General Assembly, 1909-10: the first required fire-fighting equipment in mines; the second provided for mine fire-fighting and rescue stations in important coal-mining centers, while the third provided for the establishment of miners' and mechanics' institutes, which were expected to aid in a general way by giving miners better knowledge and training in the technical problems of their industry. The first two of these bills were passed by the General Assembly and approved by the governor.

The Commission devoted a large amount of time and labor to the preparation of these measures. It consulted with experts connected with the federal mine-accident stations who had had a great deal of experience in fighting mine fires and who conducted for the Commission a number of special experiments having to do with mining conditions peculiar to Illinois. The United States Bureau of Mines made tests to ascertain the most suitable hydrant pres-

<sup>1</sup> See p. 358, n. 4, in section on use of explosives.

<sup>2</sup> See Illinois Bureau of Labor Statistics, *Report on the Cherry Mine Disaster* (1910).

tures and sizes of hose and nozzles for use in fighting mine fires.<sup>1</sup> The Commission also had the assistance of the experts and testing equipment of the Fire Underwriters' Laboratory in Chicago, the advice of the chief and assistant chief of the Chicago Fire Department, and the assistance of electrical and mining experts relative to the installation and use of systems of mine signals and telephones. Members of the Commission examined mining laws and regulations of other states and countries bearing on these subjects, and one member also visited mine fire-fighting and rescue stations in certain foreign countries. A serious effort was made to select the provisions, practices, and suggestions which were best adapted to mining conditions in Illinois. The task was rendered more difficult by the fact that the price of coal at the mines in Illinois was less than half what it was in other countries with which Illinois mining conditions and mine fatalities were often compared, and in many cases was actually less than the cost of production. Some of the mining practices of other countries which were conducive to safer and less wasteful mining were not financially possible in Illinois so long as the margin of profit was so small. The Commission found, however, that the mine operators of the state were more than willing to support and comply with every legislative provision for increased safety which was feasible from the financial standpoint.

The first bill<sup>2</sup> prescribed in great detail the character of fire-fighting apparatus to be used and the precautions to be observed against fires in coal mines. Carefully drafted provisions regulated the nature of the water supply; the kind of pipes, hose, and nozzles to be provided; the kind and number of fire extinguishers and automatic sprinklers; methods of constructing stables and the manner of transporting and storing feed and bedding; the kind of telephone and electric gong signal systems to be used,<sup>3</sup> and the organ-

<sup>1</sup> The results of these tests may be found in L. D. Tracy and R. W. Hendricks, *Small Hose Streams for Fighting Mine Fires*, published as *Technical Paper No. 330*, U.S. Bureau of Mines.

<sup>2</sup> *Laws of 1909-10*, p. 84.

<sup>3</sup> The amendment of 1911 no longer required alarm gongs, since both operators

ization of a fire-fighting corps among the workers in each mine. The hoisting and escapement shafts, the roof of passageways within 300 feet of either shaft, and all underground stables in all coal mines developed after the passage of the act, were to be of fireproof construction. For the purpose of securing an efficient enforcement of the act, each state mine inspector was to make a written request upon the board of supervisors or of commissioners of each county in which coal was produced for the appointment of a county mine inspector who was to aid in the work of inspection.

This bill contained provisions that were probably superior to those in the mining code of any other state or country dealing with the same subject.<sup>1</sup>

The second bill<sup>2</sup> provided for the establishment and maintenance of mine fire-fighting and rescue stations to serve the northern, the central, and the southern coal fields of the state. The governor was authorized to appoint a Commission<sup>3</sup> to carry out the provi-

and miners were convinced that the danger of panic among the men when such alarms were sounded outweighed the benefit of the warning. See Illinois Mining Investigation Commission, *Report* (1911), p. 8. In order to facilitate the communication of warnings to the miners, the bill increased the number of underground telephones required.

<sup>1</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 9. Several amendments designed, however, to improve the law have been passed. The amendment dealing with alarm gongs has already been mentioned. Other amendments extended the use of fire extinguishers to buildings on the surface and provided for recharging of all fire extinguishers. The kind of fire extinguisher required has likewise been changed, and in 1917 this provision was given flexibility by authorizing the Department of Mines and Minerals to approve other extinguishers than those specified by law. The location of underground stables was also carefully regulated.

Taken cumulatively, the provisions in the Illinois mining code with respect to the protection of stables from fire were unusually stringent, and if obeyed were sufficient to make stable fires practically impossible. In many mines, however, these provisions were not obeyed. See S. O. Andros, *Coal Mining in Illinois* (1915), p. 171, published as *Bulletin No. 13*, Illinois Coal-Mining Investigations, Co-operative Agreement.

<sup>2</sup> *Laws of 1909-10*, p. 2.

<sup>3</sup> It was to consist of seven members, including two coal operators, two coal miners, one state mine inspector, one representative of the federal organization for



sions of the act. The Commission was authorized to accept as gifts or provide out of the appropriation<sup>1</sup> suitably located sites for the stations and the necessary equipment. A man experienced in mining and mine engineering was to be appointed manager of the three stations, and, with the advice and consent of the Commission, he was to appoint a superintendent and assistant for each station.<sup>2</sup> Whenever the manager or the superintendent of any station was notified by any responsible person that an explosion or accident requiring his services had occurred at any coal mine in the state, he was to proceed to the mine immediately with suitable equipment, and on arrival was to superintend the work of the rescue corps. The manager was to have authority over and might assume control of the mining property to such extent as was necessary for the protection of human life in the mine.<sup>3</sup>

It was expected that at intervals during each year, groups of miners from all the more important mines in the state would visit one or another of the three stations for instruction in the use of special mine fire-fighting and rescue equipment and methods. These trained men would constitute in each important mining district a volunteer mine fire-fighting and rescue corps which would act under the direction of the manager of the stations and his assistants and co-operate with the mine management in all dangerous mine fire-fighting and rescue work.

By the passage of this law, Illinois became the first state to provide a rescue service for use in coal mines. The establishment

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the investigation of mine accidents (the act of June 5, 1911, substituted for this provision the requirement that one member should be a representative of the Federal Bureau of Mines), and one representative of the department of mining at the University of Illinois.

<sup>1</sup> The sum of \$75,000 was appropriated to equip and maintain the service to July 1, 1911.

<sup>2</sup> After the State Civil-Service Law went into effect on July 1, 1911, the State Civil Service Commission gave examinations to applicants for positions as manager, station superintendent, and station and car assistants.

<sup>3</sup> Several minor amendments, dealing chiefly with the management and personnel of the mine-rescue corps, have been passed from time to time. Additional mine-rescue stations have also been established (*Laws of 1927*, p. 45).



of these stations was an essential part of a general plan which the Mining Investigation Commission evolved and for which it asked special consideration. First of all it pointed out that the federal government, in co-operation with agencies of the state, had established at Urbana, Illinois, a station for investigating the causes of mine accidents, the means of preventing them, and the methods of rescue work adapted to the Illinois, Indiana, and western Kentucky coal fields.<sup>1</sup> Furthermore, this and the other federal stations would gather information concerning new methods and equipment from other mining countries. The Commission hoped that the federal government would see fit to enlarge the equipment and work of the Urbana station and thus aid in mine rescue-work in that region. Second, the three Illinois stations would supply equipment and a trained corps of miners for fire-fighting and rescue work in all parts of the state. The oxygen helmets and other equipment would be well adapted for work under especially dangerous conditions such as where a mine was filled with noxious or explosive gases, whether occurring naturally or generated by a fire or an explosion. Third, under the provisions of the first bill discussed in the foregoing, there would be installed in every coal mine in the state certain prescribed equipment which would be effective in coping with fires when no poisonous or explosive gases were present, but especially effective in extinguishing fires that had gained little headway.

The Commission did not believe it advisable, in view of the condition of the mining industry, to compel every mine to be equipped with costly apparatus such as was essential only in case of a serious

<sup>1</sup> This station was established in March, 1909, by the United States Geological Survey in co-operation with the Illinois Geological Survey and the University of Illinois, and was a branch of the Central Testing Station at Pittsburgh. It was established primarily to supply the equipment and trained assistants required for the study by survey experts of mine explosions in the Illinois, Indiana, and western Kentucky coal field, and in the hope that the station would offer a means of demonstrating modern rescue methods to the mining fraternity of this field. The station was not established to furnish a permanent rescue corps to act in the event of mine disasters in ordinary rescue work. See R. Y. Williams on "Rescue Stations in Illinois Coal Mining Localities" in the *Mining World*, May 7, 1910, p. 935.

disaster, but believed that such equipment should be supplied at a few centrally located points.<sup>1</sup>

The third bill proposed by the Commission is discussed in the section dealing with mining education.<sup>2</sup>

Aside from these laws and their respective amendments which grew out of the Cherry mine disaster, the general mining law has been amended from time to time in such manner as to render the occurrence of mine fires and explosions less likely. In several instances specific requirements replaced phrases that were subject to different interpretations at the hands of different people, with the result that ambiguities were cleared up and the law made more susceptible to intelligent observance and strict enforcement. Numerous additional requirements, however, were also made. Among the subjects treated were the storage and use of oil and explosives; materials to be used in fireproof construction of mine buildings; number and use of safety lamps;<sup>3</sup> removal of explosive gas from working places by special air current; prohibition of entry by the night shift while the night examiner was in the mine if marsh gas had previously been detected in dangerous quantities; manner of installing electrical equipment and provision for extinguishing such fires as might result from use of electricity in mines; use of arc welders and blow torches in mines, and right of the operator to search underground employees if in his judgment they were violating the provision which prohibited the carrying of any open light, lighted pipe, cigar, cigarette, or fire in any form within five feet of an open package of explosive.

The provisions concerning the time of examining mines were gradually made more restrictive in order to lessen the danger of explosion of mine gases. The provision in the 1879 act requiring

<sup>1</sup> The report of the Commission may be found in *House Journal*, Special Session of 1909-10, pp. 94-98.

<sup>2</sup> See pp. 333 ff.

<sup>3</sup> Every mine in the state was to be provided with at least two safety lamps, and as many more as might be required by the state mine inspector. No one was to be permitted to use a safety lamp unless he understood its proper use and the danger of tampering with it.

working places where fire damp was known to exist to be examined every morning was extended in 1887 by requiring a similar examination of all mines in which men were employed. The revised code of 1911 required the underground workings of mines to be examined by a certified mine examiner within twelve hours preceding every day upon which the mine was to be operated. In 1913, this period was reduced to eight hours. While this provision was more restrictive than that of 1911, it was recognized that in some mines eight hours was too long an interval. The amendment of 1915 took cognizance of this fact and authorized the state mine inspector to require mines generating explosive gas in dangerous quantities to be examined in such manner and at such shorter interval before the day shift went on duty as might be necessary to insure the safety of men working in the mine. Some persons believed that this provision was not sufficiently restrictive. About 60 per cent of the mines in southern Illinois generate explosive gas in dangerous quantities, and in view of this fact it has been advocated<sup>1</sup> that Illinois follow the example of Pennsylvania, which requires bituminous mines of this type to be examined within three hours previous to the time the workers enter the mine.<sup>2</sup> Although Illinois has not yet adopted this standard, some further advances have been made toward it. A 1919 amendment provided that all mines in which closed electric lamps were used exclusively should be examined within four hours preceding the time the day shift went on duty, and a sufficient number of practical experienced miners were to be employed by the company to examine the mine for noxious or inflammable gases while the men were working therein. The mine was furthermore to be examined by a competent person with a safety gas-testing lamp on idle days, holidays, and Sundays preceding the time the night shift went on duty. In order to promote greater safety,<sup>3</sup> the Mining Investigation Commission recommended, and the General Assembly of 1921 passed, a law requiring that in mines

<sup>1</sup> Steve Gosnell, "Proper and Lawful Examination of a Mine," in the *Coal Industry*, August, 1919, pp. 310-11.

<sup>2</sup> Pennsylvania Bituminous Mining Law, art. v, sec. 1.

<sup>3</sup> Illinois Mining Investigation Commission, *Report* (1921), p. 5.



generating gas in dangerous quantities a mine examiner should examine that split of air in which gas was generated within six hours preceding every day upon which the mine was to be operated. In mines in which electric safety lamps were used, working places being driven within a distance of 75 feet from old and abandoned workings were to be examined by a competent person after the machine had finished cutting and before the miners were allowed to enter the place. This provision was also recommended by the Mining Investigation Commission<sup>1</sup> in the interest of safety. It was an added precaution against dangers from water and gas in abandoned workings.<sup>2</sup>

Still another type of legislation has been adopted to prevent mine fires and explosions as well as to prevent contamination of mine air and flow of water and oil into mines. Both the 1911 and the 1913 Mining Investigation Commissions considered means of avoiding the dangers resulting from oil and gas wells in the neighborhood of coal mines. The coal and oil fields of Illinois overlap to a large extent, and when oil and gas wells pass through coal strata there is considerable danger that gas, oil, and water will leak into the mines, or into coal beds which may be mined in the future. Numerous fires and explosions, resulting in loss of life and property, have occurred in other states where similar conditions obtain. In 1911, accordingly, a law was passed on recommendation of the Commission prohibiting the drilling of any oil or gas well nearer than 250 feet to any mine opening used as a means of ingress or egress or as an air shaft.<sup>3</sup>

Owing to the inefficient enforcement of this law, the Mining Investigation Commission in 1913 recommended the passage of a law authorizing the appointment of an inspector of gas and oil wells whose duty should be to enforce the law under the supervision of

<sup>1</sup> *Report* (1921), p. 6.

<sup>2</sup> The state mining law has always required bore holes to be maintained in advance of workings that were being driven toward an abandoned mine suspected of containing inflammable gases or of being inundated with water. This provision has been amended from time to time in the interest of greater safety.

<sup>3</sup> *Laws of 1911*, p. 426.



the State Mining Board.<sup>1</sup> The bill was passed by the General Assembly, but was vetoed by Governor Dunne since it purported to amend an independent act passed in 1911, whereas there had been no such independent act passed. The 1911 act referred to in the bill submitted in 1913 was itself an amendment to a law passed in 1905. The proposed bill was therefore incorrect in form and for that reason void.<sup>2</sup>

#### USE OF EXPLOSIVES

The first act designed to lessen the danger of powder explosions was passed in 1883. At that time, miners were accustomed to using heavy iron bars for tamping powder in holes prepared for blasting, and it sometimes happened that sparks were struck from pyrite, or "sulphur," in the process of tamping. It is obvious that this was a dangerous practice. The General Assembly consequently passed a law requiring that copper needles be used and that iron bars used for tamping blasts of powder in coal be tipped with not less than five inches of copper. While this law, if observed,<sup>3</sup> would have effected an improvement in mining practices, it could not completely avoid danger from sparks since it is possible to strike a spark even with a copper rod.<sup>4</sup> In 1889, responsibility was placed upon the operator to see that miners did not use tools prohibited by law.

The act of 1889 made it the duty of the mine inspector to see that in all mines every practicable precaution was taken against accidents from careless handling of powder, and in no case was more powder to be stored in a mine at any one time than in the discretion of the inspector was necessary for each day's use. It was

<sup>1</sup> Report of the Mining Investigation Commission in *House Journal*, 1913, p. 724.

<sup>2</sup> Veto message in *House Journal*, 1913, p. 2164.

<sup>3</sup> It is said that at first some miners did not provide themselves with copper-pointed tools since they could not afford to do so. See Illinois Bureau of Labor Statistics, *Third Biennial Report* (1884), p. 499.

<sup>4</sup> The United States Bureau of Mines recommends the use of a wooden tamping bar. This is mentioned in James R. Fleming and John W. Koster, *The Use of Permissible Explosives in Illinois* (1917), p. 60, note a, published as *Bulletin 137*, U.S. Bureau of Mines.

declared unlawful for coal-miners to charge a blasting hole with loose powder, or otherwise than with a properly constructed cartridge; and in dry and dusty mines it was required that cartridges be loaded with a powder can constructed for the purpose.<sup>1</sup>

Other laws, passed by the General Assembly in 1895, 1899, 1903, and 1907, contained additional provisions regulating the use of explosives. The manner of storing explosives on the surface was prescribed and careful regulations governed the way in which miners might keep their limited stores of explosives in the mine. Other provisions prohibited miners from opening containers of explosives with picks, wedges, or in any manner other than that provided by the manufacturer of the explosive, and from handling loose powder with their lamps in line with the air current passing the powder.<sup>2</sup> The manner of preparing and firing shots was very carefully regulated. Warning was to be given when a shot was about to be fired, and minimum times were set for returning to missed shots. A second shot might not be fired in a working-place where the roof was broken or faulty until smoke from the previous shot had cleared away and the roof had been examined.

In Illinois the number of men killed in mine explosions was relatively small until after 1897, when a change was made in the method of paying the miners. Before 1897, miners were paid on the basis of the amount of lump or screened coal mined, while after 1897 they were paid on the basis of all coal mined. Whereas before 1897 the method of computing wages provided the miner with an incentive to undercut the coal and use small charges of powder, the method used after 1897 put a premium on "shooting off the solid" and using large charges of power. This soon led to a large increase in the frequency and seriousness of explosions,<sup>3</sup> and ef-

<sup>1</sup> It will be recalled that this law also prohibited the employment of inexperienced men underground if their duties involved contact with inflammable gases or the handling of explosives unless they worked under the immediate direction of competent men. See section on mine fires and explosions, p. 344.

<sup>2</sup> Their lamps were to be at least 3 feet horizontally from the powder. This distance was later increased to 5 feet.

<sup>3</sup> The increase was particularly noticeable beginning with the year 1902-3. Table XII shows the total number of mine fatalities, and the number and per

forts were made through legislative enactments to control the amount of powder used and the manner of preparing and firing shots.<sup>1</sup>

In the meantime the coal-miners had been demanding that the

cent of mine fatalities due to powder explosions in Illinois for the years 1891 to 1916.

TABLE XII

NUMBER AND PER CENT OF MINE FATALITIES DUE TO POWDER EXPLOSIONS IN ILLINOIS,  
BY YEARS, 1891 TO 1916  
(COMPILED FROM THE ANNUAL COAL REPORT)

Year	FATAL ACCIDENTS			Year	FATAL ACCIDENTS		
	Total	Due to Powder Explosions			Total	Due to Powder Explosions	
		Number	Per Cent			Number	Per Cent
1891 . . . . .	60	11	18.3	1904 . . . . .	157	44	28.0
1892 . . . . .	57	4	7.0	1905 . . . . .	199	88	44.2
1893 . . . . .	69	6	8.7	1906 . . . . .	155	24	15.5
1894 . . . . .	72	8	11.1	1907 . . . . .	165	24	14.5
1895 . . . . .	75	12	16.0	1908 . . . . .	183	36	19.7
1896 . . . . .	77	9	11.7	1909 . . . . .	213	69	32.4
1897 . . . . .	69	11	15.9	1910 . . . . .	406	33	8.1
1898 . . . . .	75	11	14.7	1911 . . . . .	157	10	6.4
1899 . . . . .	84	4	4.8	1912 . . . . .	180	2	1.1
1900 . . . . .	94	17	18.1	1913 . . . . .	175	13	7.4
1901 . . . . .	99	3	3.0	1914 . . . . .	159	11	6.9
1902 . . . . .	99	13	13.1	1915 . . . . .	180	74	41.1
1903 . . . . .	156	47	30.1	1916 . . . . .	165	13	7.9

<sup>1</sup> See George S. Rice, *The Explosibility of Coal Dust* (1911), pp. 30-31, published as *Bulletin 20*, United States Bureau of Mines.

According to the law of 1903, in coal seams  $5\frac{1}{2}$  feet or over in thickness, not more than 60 inches of powder might be used in any one shot, and not more than 48 inches in coal seams less than  $5\frac{1}{2}$  feet in thickness. As defined in the act, one inch of powder was one lineal inch  $1\frac{1}{2}$  inches in diameter. The drilling and shooting of "dead" holes, and the tamping of drill holes with drill dust or other combustible material, were prohibited.

"Dead" holes were later defined by law as those in which the width of the shot at the point measured at right angles to the line of the hole was so great that the heel was not of sufficient strength to at least balance the resistance at the point. The heel meant that part of the shot which lay outside of the powder (*Laws of 1913*, p. 442, sec. 7). This definition was inserted in the law on recommendation of the Mining Investigation Commission for the purpose of bringing it more pointedly to the attention of the shot-firer. See Report of the Commission in *House Journal*, 1913, p. 723.

operators employ shot-firers whose duty should be to inspect and fire all blasts, thus reducing the number of men exposed to the dangers incident to blasting. The immediate outcome of this controversy was the appointment of a board consisting of two operators and two miners to investigate the matter. This board could not reach an agreement, but in 1903 the two operators filed a report of their conclusions with the Illinois Coal Operators' Association. They reported that there were no dangerous conditions existing in the mines in question, that they believed the employment of shot-firers to be unnecessary and detrimental to the safety of life and property. It was asserted that their employment would decrease the amount of coal produced and hence increase the cost of production, and further that the demand by the union was in direct violation of the state agreement. Hence they asserted this demand should be withdrawn and the miners continue to fire their own shots.<sup>1</sup>

In 1903, the miners introduced a bill into the General Assembly requiring the operators to employ shot-firers, but a bill regulating the use of powder was passed in its stead<sup>2</sup> and it was not reported out of committee. In 1905, they introduced another bill and this time had better success. Great interest was aroused and the operators made a bitter fight against the bill. They stated that they were certain the introduction of shot-firers would increase the hazard and mean a greater sacrifice of life, and submitted data from other states showing that this had been the result elsewhere. Accidents during the blasting itself constitute a less serious menace than falls of rock, slate, and coal caused by excessive blasting. If a man knows that someone else is to fire his shots, he will not hesitate to use an extra amount of powder. Furthermore, under these conditions operators would be unable to get safe, reliable, and competent miners to accept work as shot-firers. They pointed out that

<sup>1</sup> *Mines and Minerals*, September, 1903, pp. 58-59.

<sup>2</sup> See the operators' protest to the Senate Committee on Mines and Mining against passage of the shot-firer bill in 1905, reprinted in Justi, *Sundry Papers and Addresses on Labor Problems* (1906). The chief provisions of the 1903 law are given in the footnote on p. 355.



the proposed bill contemplated the employment of shot-firers in practically all the mines in the state, including long-wall and machine mines along with the rest. To require shot-firers in machine mines would all but necessitate their closing since it would prevent work by the night shift. In these mines it was customary to work the machines both day and night. If this were prevented, output would be reduced and many machine-runners and loaders thrown out of employment. The stopping of night shifts would also seriously affect long-wall mines, where large quantities of rock must be handled and where blasting is wholly incidental when not prohibited entirely. It was asserted to be the unanimous opinion of the mine owners that the legislature should either enact a law requiring the miner to shear or undercut his coal, and impose a sufficient penalty for placing or firing any shot not mined or cut "in the clear," or it should take steps to have the existing law covering the use of powder in coal mines strictly enforced.<sup>1</sup> A further argument used by the operators was that such a law was in direct violation of an agreement entered into between the miners and the operators, which did not expire until April 1, 1906. The miners, however, held that it was intended to conserve human life, and therefore had no connection with the wage scale provided in the contract.<sup>2</sup>

The operators prevailed on the Senate to table the original bill, but could not prevent passage of a substitute (S.B. No. 390) of less general application. The outlook was very unfavorable for passage of the latter bill in the House, however, for it was generally understood that the speaker of that body had assured the operators that he would not permit it to pass. The operators were so certain that the bill would be lost that they left for their homes before the close of the session.

In the meantime liquor was flowing freely and many of the legislators became intoxicated. One representative in this condition was approached by the miners' delegates who stated that they

<sup>1</sup> *Ibid.*

<sup>2</sup> Association of Officials of Bureaus of Labor Statistics, *Proceedings of the Twenty-first Annual Convention* (1905), p. 63, statement by Mr. David Ross.

could not go back to their local unions without securing the enactment of the shot-firer bill, and since he represented a mining district, they told him that he would hear from them when he got back home if nothing was done by the legislature. This warning brought forth the representative's promise to do what he could. He went to the speaker to urge the passage of the bill but this functionary asserted that he had promised the operators that the bill would not pass while he was in the chair. The inebriated member said, "Well, why don't you get out of the chair?" After pondering a moment, the speaker got out of the chair, and the bill was passed.

The law<sup>1</sup> provided that in all mines in Illinois where coal was blasted and where more than 2 pounds of powder were used for any one shot,<sup>2</sup> and in all mines where gas was generated in dangerous quantities, the operator should employ at his own expense a sufficient number of practical, experienced men,<sup>3</sup> to be designated shot-firers, whose duty it was to inspect and fire all blasts in the mine, which had been prepared in a practical and workmanlike manner.<sup>4</sup>

<sup>1</sup> *Laws of 1905*, p. 328.

<sup>2</sup> The 1907 law required shot-firers to be employed in all mines in the state where coal was blasted, and where *not* more than 2 pounds of powder were used in any one blast, etc. This inadvertent inclusion of the word "not" reversed the meaning of the original act. This error was corrected in 1913, when the original wording was re-enacted into law.

<sup>3</sup> An amendment passed in 1913 upon recommendation by the Mining Investigation Commission required shot-firers to be practical, experienced "miners," instead of practical, experienced "men."

<sup>4</sup> No firing of blasts was to be permitted until everyone except the shot-firers was out of the mine. After the completion of their work, the shot-firers were to post a notice in a conspicuous place at the mine in which should be indicated the number of shots fired and the number and location of those not fired and the reasons for their failure to fire these shots. They were also to keep a permanent daily record of the number of blasts fired, the number failing to explode, and the number which in their judgment were not properly prepared and which they refused to fire, giving the reasons for their refusal.

The Shot-Firer Law was amended in some respects in 1907 and in 1927. Instead of permitting only shot-firers in a mine when blasting was being done, these laws also permitted the presence of the mine superintendent, the mine manager,

The passage of this law infuriated the operators. A quotation from their official organ will serve to show their attitude:

A more vicious mining law was never enacted, nor one which the coal operators so bitterly opposed. They sought in every honorable way to convince the law-makers that this proposed law was not a proper remedy for explosions—that it could be of no possible advantage to good miners, coal operators or coal consumers, but the vote of the Senate and of the House on the measure shows how little the influence of the employing class weighed against the tremendous influence of organized labor. And organized labor was in evidence in the present legislature as never before in the history of the State.<sup>1</sup>

The operators demanded that the miners' union reimburse them for the expense of hiring shot-firers, since under the terms of the joint agreement the miner was to do all the work incident to producing and loading the coal in cars at the face—including, of course, the firing of blasts—and this at the price agreed upon.<sup>2</sup> They said the law would add to the cost of mining coal and thus throw the

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mine examiners, the men necessarily engaged in caring for the pumps and stables, and the men needed to secure the workings in case of fire. (The necessity for the enactment of the latter provision may be realized by reading page 363.) Miners were prohibited from altering any drill hole after it had been approved by the shot-firer. (One fair criticism of the law was that it transferred the danger from the man who prepared an improper shot to the man who fired it. The friends of the law had to admit the truth of this contention, but nevertheless believed that the least number possible should be exposed to the dangers involved. See *Annual Coal Report* [1908], p. 3. In order to protect shot-firers, laws passed in 1919 and 1921 regulated the length of fuse to be used and the length of fuse protruding from the mouth of the hole.) Shot-firers were prohibited from firing any unlawful shot or any shot which they did not believe to be workmanlike, proper, and practical.

In 1921, the Shot-Firer Law was again amended. In accordance with the then prevalent policy of Americanization and for the reason that it was deemed advisable that anyone engaged as a shot-firer should be able to speak and understand the English language so that no mistake would be made in conveying or giving orders, the General Assembly passed, upon recommendation by the Mining Investigation Commission (*Report* [1921], p. 9), an amendment requiring shot-firers to be citizens of the United States and to be able to speak and understand the English language (*Laws of 1921*, p. 568).

<sup>1</sup> *Fuel*, V, No. 1 (May 8, 1905), 18.

<sup>2</sup> *Fuel*, V, No. 2 (May 15, 1905), 58.



different sections of the state out of their competitive relationship, and the entire state out of competitive relationship with the other states in the interstate movement, contrary to the provisions of the contract. They claimed that the law would increase fatal and non-fatal accidents and that it would abrogate all existing contracts since the operators would have to segregate the work of the miner.<sup>1</sup>

The miners replied that in their opinion their support of the shot-firer bill was not a violation of the joint agreement. They asserted that even if they agreed to pay the alleged increase in cost of mining, it was impossible to say, at that time, what the extra cost, if any, would be. They therefore suggested that the operators hire shot-firers and accept the law in good faith, giving it a fair trial over a sufficient time to discover just what its effects would be. If it could then be shown that loss of life had increased or that it worked any other hardship on the operators, it was stated that the miners would meet with them for the purpose of adjusting the matter.<sup>2</sup>

The Illinois Coal Operators' Association called a meeting to consider what action they should take. It proved to be the largest meeting in the history of the organization. Of the mines constituting the membership fully 95 per cent were represented, and over one-half of the tonnage of the state outside the Association was also represented.

All recognized that the battle was for the association, for the permanency of the coal-producing industry on a business basis, for the preservation of the right to manage their mines in a business manner, and for the maintenance of the inviolability of the contracts which they had been making from year to year with the miners.

Although but few of the operators were affected by the provisions of the act,<sup>3</sup> they voted unanimously to close every mine in Illinois

<sup>1</sup> *Fuel*, V, No. 8 (June 26, 1905), 268.      <sup>2</sup> *Fuel*, V, No. 4 (May 29, 1905), 126.

<sup>3</sup> The law did not affect mines in which 2 pounds or less of powder were used in any one blast, machine mines, or mines in the long-wall district in which little or no blasting was done, but which were then quite a factor in the industry. In 1905, long-wall mines produced approximately 15 per cent of the coal mined in Illinois. In 1925, they produced less than 2 per cent, the absolute amount having decreased



on July 1, 1905, when the act went into effect, and to keep them closed until a new agreement could be made with District 12.<sup>1</sup>

The miners offered to arbitrate the question as to whether they had violated the agreement by their action in asking for the Shot-firer Law, and proposed that the matter be argued before the governor of the state or before an arbitration board selected by the two sides, who should make a binding decision. At a joint conference held in Chicago on June 28, 1905, President H. C. Perry, of District 12, made a further proposal in hope that the lockout might be averted. He stated that where it was practicable and compatible with good judgment to shoot coal in machine mines with 2 pounds or less of powder, or its equivalent, the miners' organization would agree to use its best endeavors to have its members use two pounds or less of powder, thus making shot-firers unnecessary under the law.<sup>2</sup> No agreement, however, was reached, and the lockout was instituted on the first of July as previously determined by the operators.

After the lockout had been in progress a week, both sides agreed to submit the dispute to an arbitrator for settlement, and the mines were reopened. Judge George Gray, of Wilmington, Delaware, a member of the Anthracite Strike Commission in 1902, was selected as arbitrator, and each side appointed a committee of two persons to argue the case.

The arguments presented by each side were much the same as had been used before the enactment of the law. The operators contended that the effect of the law, by requiring them to provide shot-firers, was to change materially the obligations of the contract between the two parties. The miners, on the other hand, contended that inasmuch as the law was a police regulation within the competence of the state to enact, they were literally fulfilling their contract so long as they drilled and blasted coal in accordance with the

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from 5,560,000 tons to 1,197,000 tons, or by almost 80 per cent. In 1905, the gaseous coal measures of the southern part of the state were not yet being extensively worked.

<sup>1</sup> *Fuel*, V, No. 8 (June 26, 1905), 267-68.

<sup>2</sup> *Fuel*, V, No. 10 (July 11, 1905), 343.

state mining law of Illinois—this provision being part of the contract. They also contended that in practice no additional burden would be placed upon the operators since under the previous system each miner fired his shots when he quit work, and the drivers, the cage men, the hoisters, car handlers, and other day laborers in the mine were compelled to stop work before the eight-hour day was completed. All of these men worked from a quarter- to a half-hour less than the eight hours called for by the contract; therefore, since only three or four shot-firers would be required, and since all men in the mine would work the full eight hours, the operators would be more than compensated for the expense of hiring them.

Judge Gray took no account of the operators' contention that the miners had violated the agreement in their support of the bill, since the legislative will and judgment was interposed between the acts of the miners and the situation as presented to him. He said, however, that it was not without significance that before advocating and promoting the passage of the bill by the legislature, the representatives of the miners had urged that the employment of shot-firers be provided for in the contract of April, 1904, but that this proposition was peremptorily refused by the operators. The substance of the decision is contained in the following quotation:

On the whole it seems to me equitable and just that until experience is acquired in the matter of the employment of shot-firers, provided for by the act, one-half of the expense necessary to their employment should be reimbursed to the operators by the miners.<sup>1</sup>

This decision was accepted for the time being by both sides. The controversy thus resulted in the interesting situation in which a categorical requirement of law, namely, that the operators should bear the entire expense, was set aside in favor of a settlement reached by an extra-legal process. The miners were very much dissatisfied with Judge Gray's decision. They could not see why they should be called upon to bear any of the expense of employing shot-firers when the law stated clearly that the operators should bear the expense. The matter was a constant bone of contention until the spring of 1910, when a strike was called, one of the objects

<sup>1</sup> *Ibid.*

being to compel the operators to bear the entire expense. The miners attained this object, and since that time the operators alone have borne the burden.<sup>1</sup>

In the three years immediately following the enactment of the Shot-Firer Law, there was an important decrease in the number of fatal accidents due to powder explosions, although in the same period there was a very material increase in the amount of coal mined and the number of persons employed in mining.<sup>2</sup> The situation, however, was far from satisfactory. With the opening of the southern Illinois coal fields in 1903, danger from gas (methane) in the mines became much greater. At this time black blasting powder was the only practical coal-mine explosive used in the United States, and from the beginning this new coal field experienced much trouble with mine fires caused by its use. At some mines as many as twenty fires occurred nightly, following the firing of shots, and in two instances forty were reported. The employment of fire-runners to follow the shot-firers and extinguish fires became necessary. Several coal-dust explosions occurred, and it frequently happened that some or all of the shot-firers were killed. A feeling of extreme uneasiness was aroused among both the miners and the operators.

Constructive efforts along various lines grew out of this situation. More care was exercised by the shot-firers in examining and refusing to fire improper charges, and a considerable number of operators began the practice of dampening coal dust along the entries.<sup>3</sup> In January, 1909, the operators and miners of Franklin

<sup>1</sup> Bills have been introduced into the General Assembly to require the employment of shot-firers in all mines in Illinois where blasting is done, regardless of the presence of gas or quantity of powder used. One bill of this nature was introduced in 1911, but neither organization was behind it, although some miners might have procured its introduction. It did not cause the operators much worry since the general disposition was to leave such matters to the Mining Investigation Commission which it was confidently believed would reach a correct conclusion in the matter. See *Fuel*, XVI, No. 16 (1911), 577.

<sup>2</sup> See David Ross, "Condition of the Coal Mining Industry in Illinois," in the *Mining World*, May 22, 1909, p. 981.

<sup>3</sup> See George S. Rice, *The Explosibility of Coal Dust*, Bulletin No. 20, United States Bureau of Mines, p. 31.



County entered into an agreement which was intended to improve the methods of using black blasting powder. This agreement embodied several good rules concerning "snubbing" of the coal, the removal of machine cuttings prior to blasting, tamping shot holes with clay and not with coal dust or cuttings, and prescribing that drill holes be at least twelve inches from the ribs of the working place, and shorter by ten inches than the depth of the undercutting; but observance of these rules, while improving condition somewhat, did not produce satisfactory results.<sup>1</sup> Fires and explosions continued to occur.

Two important laws were enacted which attempted to improve the situation. The Joint Powder Commission, composed of three representatives of the Illinois Coal Operators' Association and three of the United Mine Workers of Illinois, adopted a resolution, introduced into that body by A. R. Lettsome, chairman of the committee representing the operators, favoring a law specifying in detail the character of black blasting powder that might be sold in Illinois for use in coal mines. The resolution was prepared after several months' investigation in mines in various parts of the state. It was found that not all the danger described in the foregoing was due to excessive use of powder, presence of gas, or negligent and impractical methods of placing shots, but that a considerable element was due to a mixture of different-sized grains in the powder used. No one individual or company was responsible for this situation. The existing methods of mixture had evolved through many years' experience in an effort to meet the supposed needs of the miners and operators: one party or the other would request the powder manufacturers to mix the sizes of powder in such manner as they believed would aid them in mining. It is true, of course, that in some instances manufacturers would ship the wrong brands or mixtures, and the miners would be misled as to the quantity required in such cases. The miners asserted that the reduced price charged for powder indicated that an inferior grade was being sold to them, and they believed that most of the fatal explosions had been due to its impaired qualities. The powder manufacturers, on the other hand, maintained that there had been no change in the

<sup>1</sup> See J. R. Fleming and J. W. Koster, *op. cit.*, pp. 7-11.



formula or the process by which the powder was manufactured. The facts in the case, as discovered by the Powder Commission, were these: When different-sized grains were used in the same blast the smaller grains would explode first and perhaps throw some of the larger grains out into the room unexploded, thus greatly increasing the danger of accident.<sup>1</sup>

The Powder Commission presented its findings to the Mining Investigation Commission, and these two bodies held conferences with the powder manufacturers for the purpose of ascertaining whether it was practicable for them to comply with the specifications proposed. The bill as drafted prescribed standards relating to the specific gravity, moisture content, and size of granulation of powder, and required containers to be properly stamped so as to show the size of granulation they contained. Mine inspectors were authorized to take samples of black blasting powder and the State Mining Board was authorized to have the same tested for the purpose of discovering whether the powder conformed to the specifications required by law.

This law<sup>2</sup> was the first of its kind in the history of mining legislation,<sup>3</sup> and tended to put an end to unprofitable speculation concerning the quality of powder in use; but it soon became apparent that explosions and fatal accidents would occur from the use of black blasting powder regardless of how carefully it was manufactured and standardized. Its characteristic long hot flame rendered its use unsafe in dusty or gaseous mines such as those of southern Illinois, even when used by expert miners under stringent regulations. In consequence, the Mining Investigation Commission drafted and submitted a bill to the 1913 General Assembly which regulated the character of "permissible explosives"<sup>4</sup> sold to be used

<sup>1</sup> See *Fuel*, XVII, No. 8 (June 20, 1911), 283; Illinois Bureau of Labor Statistics, *Labor Legislation Enacted by the 47th General Assembly* (1911), p. 60.

<sup>2</sup> *Laws of 1911*, p. 385. A minor amendment to this law was passed in 1927 (*Laws of 1927*, p. 600).

<sup>3</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 9.

<sup>4</sup> "Permissible explosives" is a term originated by the United States Bureau of Mines and used to designate explosives which had been tested by the Bureau and found to be of such character as to be safe for use in gaseous and dusty mines.

in Illinois coal mines.<sup>1</sup> All such explosives were required to conform to standards adopted by the United States Bureau of Mines, and penalties were provided for selling permissible explosives which failed to conform to these standards, or which were untruthfully branded or stamped. Mine inspectors and accredited representatives of the coal operators or coal-miners were given authority to sample permissible explosives intended to be used in Illinois coal mines, and to send such samples to the United States Bureau of Mines for testing. The law also prescribed methods to be used in storing permissible explosives.<sup>2</sup>

Permissible explosives, with their short, relatively low-temperature flame, are better than black blasting powder in that they lessen the risk of fire and explosions of gas and coal dust. They make fire-runners unnecessary; damage the roof less; leave cleaner ribs; result in fewer blown-out shots, air blasts, and windy shots; scatter the coal less, and are better adapted for use in wet holes. Besides these advantages they produce no smoke, and thus make mining pleasanter as well as safer. In the Illinois coal-mining industry they are used almost exclusively in working seams Nos. 5 and 6, Franklin and Williamson being the chief producing counties.

In addition to these special laws, the general mining law has been amended from time to time for the purpose of improving the methods of handling explosives. In order that the severe explosions of the past resulting from the firing of an excessive number of shots within too limited a space might be eliminated or lessened,<sup>3</sup> the revised code of 1911 contained explicit regulations with reference to room turning and cross-cuts in connection with entry driving. Regulations concerning the character of blasting holes which might be drilled or fired were made clearer and more restrictive.

<sup>1</sup> In drafting this bill, the Commission gave a thorough hearing to powder experts, to members of the Powder Commission of the miners and operators, and called on the Bureau of Mines for assistance, which it rendered by sending one of its officials, who gave valuable counsel. See 1913 Report of the Mining Investigation Commission in *House Journal*, 1913, p. 722.

<sup>2</sup> *Laws of 1913*, p. 431.

<sup>3</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 6.

No missed shot might be withdrawn except by the use of copper-tipped or wooden tools. An amendment passed in 1913 permitted explosives to be taken into coal mines only during the interval after the shot-firers came out of the mine and prior to the entry of the day shift into the mine in the morning. In order to prevent the likelihood of accidents caused by persons returning to missed shots before sufficient time had elapsed to insure that the shot would not explode,<sup>1</sup> the act of 1921 contained more restrictive provisions than earlier laws dealing with this subject.

#### SAFETY IN HAULAGE AND HOISTING

From the very beginning the mine-labor laws of Illinois have contained provisions designed to promote safety in haulage and hoisting. The law of 1872 required the operator to provide a safe means of hoisting or lowering persons at the mines, with a sufficient cover on the hoisting cage to protect persons being hoisted or lowered. He was likewise to provide a "suitable means" of signaling between the top and the bottom of the shaft. No person was to be permitted to ride upon a loaded wagon or cage used for hoisting purposes in any shaft or slope, and no coal might be hoisted out of any mine while persons were ascending from or descending into the mine. Operators were required to keep steam boilers in good condition, and were to have them inspected by a competent boiler-maker or other well-qualified person at least as often as once every six months, and were to certify in writing the results of such examinations to the mine inspector. Steam boilers were to be provided with proper steam and water gauges and with safety valves. The top of every shaft, whether in operation or abandoned, was required to be securely fenced off. In all underground planes or gangways where coal cars were drawn or persons traveled, proper means of signaling between the stopping places and the ends of the planes or gangways had to be provided. Sufficient places of refuge were required to be provided along such planes or gangways at intervals of not more than twenty feet.

Although this law contained many provisions regulating the

<sup>1</sup> *Ibid.* (1921), p. 4.



operations of hoisting and of haulage, none of them was found to be adequate, whether from lack of specificity or from narrowness of scope. Many of the mining laws passed since 1872 have endeavored to correct these defects.

With reference to safety in hoisting, provisions have been enacted requiring that hoisting cages be covered with boiler iron, that guides be furnished to conduct them on slides through the shaft, that drums be provided with sufficient brakes and cages be equipped with spring catches to prevent accident in case of failure of the hoisting machinery, and that handholds be provided for the use of men riding on cages. The mine inspector has authority to determine the number of men to be permitted to ride on a cage at one time and the rate of speed at which such cages may be operated. A code of signals is prescribed for use in connection with the operation of hoisting machinery, and attendants are to be stationed at the top and bottom of hoisting shafts to see that the rules are observed. In order that the hoisting engineer may at all times know the exact position of the cages in the shaft, every hoisting engine must be provided with an index dial or indicator.<sup>1</sup> In order to prevent injuries to men at the top landing, cage supports are to be provided which act automatically and securely hold the cage when at rest; and at the bottom of the shaft a traveling way must be provided to enable men to pass from one side of the shaft to the other without passing under or over the cages. Other provisions carefully regulate numerous other details concerning hoisting equipment and its operation.

Mine cars are a prolific cause of accidents, as shown in Table XIII, and many laws containing provisions designed to reduce their number and seriousness have been passed. The provisions of the law of 1872 concerning places of refuge along haulage roads have been changed several times. The mining code now prescribes the size of such places of refuge and the maximum interval between them. In order to make them more easily discernible they must

<sup>1</sup> This provision was enacted in 1899 but had been recommended by a county mine inspector in his annual report more than fifteen years before. See Illinois Bureau of Labor Statistics, *Second Biennial Report* (1882), p. 37.



be whitewashed or otherwise distinguished from the surrounding walls. Refuge places on single-track haulage roads constructed after the passage of the 1915 amendment must be placed on the side opposite the electric-power wires. In order to keep men away from the cars and machinery at the shaft bottom while waiting to be hoisted out of the mine,<sup>1</sup> places of refuge are to be provided for their use at such places and of such size as the mine inspector approves. Traveling ways on haulage roads must be kept free from refuse and loose materials.

TABLE XIII

COAL-MINE FATALITIES DUE TO HAULAGE, FOR ILLINOIS,  
BY FIVE-YEAR PERIODS, 1901 TO 1920\*

Period	Total Underground Fatalities	Haulage Fatalities†	Per Cent of Total†
1901-1905.....	668	84	12.6
1906-1910.....	1,024	145	14.2
1911-1915.....	753	191	25.4
1916-1920.....	904	278	30.8

\*From H. H. Stoeck, J. R. Fleming, and A. J. Hoskin, *A Study of Coal-Mine Haulage in Illinois* (1922), p. 120, published by University of Illinois Engineering Experiment Station as *Bulletin No. 132*.

†The increase in number and percentage of fatalities due to haulage is due to the increase in number of men employed and of coal produced, to larger producing mines, large capacity cars, and use of mechanical means and high speed in haulage.

Other provisions regulate the equipment and manner of operating mine cars. The kind of car coupling to be used is prescribed. Signal lights are required on cars, and a gong must be placed on every trip or train moved by machinery. Man trips may not be run in excess of the speed determined by the state mine inspector, and the number of men riding in any one car must not exceed the number fixed by the state mine inspector, except in an emergency. Keen-edged tools may not be hauled in the cars in which men are being hauled to and from their working places.

#### SINKING OF SHAFTS

The revised mining code of 1911 contained new provisions to protect men engaged in sinking mine shafts—a matter which had previously been entirely neglected except for the indefinite and in-

<sup>1</sup> Illinois Mining Investigation Commission, *Report* (1911), p. 5.

adequate provision in the act of 1899, that shafts projected or in process of sinking were to be subject to inspection by the state mine inspector. Any shaft or other opening in process of sinking for the purpose of mining coal was made subject to inspection by the state mine inspector of the district. Over every such shaft a safe and substantial structure to support sheaves or pulley ropes was to be constructed. The apparatus was to be so arranged that material could not fall into the shaft. All blasts used in sinking shafts were to be exploded by electric battery, and shafts in process of sinking were to be properly ventilated. No one except certificated hoisting engineers might be in charge of the hoisting engines while a shaft was being sunk.

#### MINE TIMBERS

During the early history of coal-mining a custom was established making the miner responsible for securing the safety of his own workplace. This included the duty of setting props where necessary in order to prevent the roof from falling. It was likewise the custom for the mine operator to furnish the timbers needed for this purpose. It appears, however, that during the seventies some of the operators were remiss in this respect,<sup>1</sup> and the miners consequently sent a delegation to the state legislature in the hope of securing a law definitely requiring the operator to furnish timbers as needed.

Pursuant to these demands, a provision was included in the revision of the mining law in 1879 requiring mine operators to provide, and send down, timber, where required to be used as props, so that the miners might, when necessary, properly secure the workings against caving in (sec. 16). The law of 1887 made these provisions more definite and added to the operator's responsibility in the matter of furnishing timber. He was required to keep a supply of timber constantly on hand, of sufficient length and dimensions to be used as props and cap-pieces, and to deliver them, as required, with the miners' empty cars, so that the miners might at all times be able to properly secure the workings for their

<sup>1</sup> See Illinois General Assembly, House, *Report of the Special Committee on Labor* (1879), pp. 58 ff.

own safety.<sup>1</sup> The miner was not specifically charged with the duty of making his workplace safe through the use of these timbers, but the courts held that this duty was implied by the statute.<sup>2</sup>

#### USE OF ELECTRICITY IN MINES

With the coming of the present century, electrical power was introduced into many of the coal mines of Illinois, and by 1911 the hazards connected with its use became sufficiently prominent to call forth legislative action. The revised mining code of 1911 provided that trolley wires or other exposed electrical wires should not carry more than 275 volts. All trolley and positive feed wires crossing places where persons or animals were required to travel, and all terminal ends of positive wires, were to be protected or guarded so as to prevent contact with them.

In 1921, the General Assembly passed a law recommended by the Mining Investigation Commission,<sup>3</sup> which contained the foregoing provisions and some additional provisions which were designed to avoid the danger of fires being started through the use of electricity. An amendment passed in 1923 required mines to be equipped with means of extinguishing any fires that might start, and provided penalties for violations of the law.

#### FIRST AID TO THE INJURED

At every mine where fifty men were employed underground, the act of 1899 made it the duty of the operator to provide a stretcher, a woolen and a waterproof blanket, and a roll of bandages for immediate use in case anyone was injured at the mine. When two hundred or more men were employed, two such outfits were to be provided. At mines where fire damp was generated the operator was also to provide a suitable supply of linseed or olive oil for use in case men were burned by an explosion.

<sup>1</sup> The law of 1923 provided that where crossbars were set by the miners, they should be furnished in the required lengths (*Laws of 1923*, p. 449, Sec. 20a 6).

<sup>2</sup> *Consolidated Coal Co. v. Scheller*, 42 Ill. App. 619, 629 (1891). Not until 1899 was this duty written into the mining law.

<sup>3</sup> *Report* (1921), p. 8. The Commission deemed it advisable to put all the sections pertaining to electricity into one act.



Additional provisions were enacted in 1911. Men sustaining injuries or becoming ill while in the mine were to be given a cage at once so that they might be taken to the surface without the delay that was otherwise permitted in case coal was at the bottom ready to be hoisted out. This act also required a first-aid outfit for every mine regardless of whether or not as many as fifty men were employed underground. Two such outfits were to be provided at mines employing one hundred or more men.<sup>1</sup>

#### PROHIBITION OF DANGEROUS ACTS

The mining code, from the passage of the first act in 1872, has contained provisions prohibiting mine employees from doing certain things that might endanger the mine property or persons working thereon. Among the acts prohibited (details omitted) were interference with ventilating apparatus; carrying of open fire into any place worked by the light of safety lamps; tampering with machinery about the mine; using other than copper needles and copper-tipped tamping bars; pulling down notice boards or danger signals; working in a working place without having made dangerous conditions safe; entering the mine premises while under the influence of intoxicants, and various other acts, some of which are mentioned in other connections.<sup>2</sup>

#### METALLIFEROUS MINING CODE

In contrast with the law governing coal-mining operations, the metalliferous mining law has been of recent development. Lead-mining has been carried on in Illinois for over two hundred years

<sup>1</sup> In 1917, the Mining Investigation Commission recommended that the operator of every coal mine be required to provide and maintain a suitable and sanitary room where first aid might be given to persons injured in the mine. The bill, however, was not passed by the legislature. See Report of the Mining Investigation Commission, 1917, in *House Journal*, 1917, p. 1168.

<sup>2</sup> One other prohibited act may be mentioned. The revised code of 1911 made it unlawful for any person to substitute or alter any device or sign used to identify the person to whom credit or pay was due for mining coal contained in the car that was so marked, with intent to defraud any other person of wages earned in mining the coal. Such act was to be punished as larceny under the general statutes of Illinois with respect to larceny.



but has never given employment to many workmen. More important than lead-mining, although it also gives employment to comparatively few men, is the mining of fluorspar,<sup>1</sup> which is carried on chiefly in Hardin County on the Ohio River. The enactment of the metalliferous-mining law grew out of conditions existing in the fluorspar mining district.

Conditions in the fluorspar mines were very bad previous to the enactment of this law. Ventilation was not provided and few safety appliances were in use. The men were compelled to work from ten to twelve hours a day. Some of the employees customarily worked seven days a week and frequently all were forced to do so. For about thirty-five years these men had been attempting to form an organization in order that they might compel the operators to provide better working conditions, but the operators, being unalterably opposed to organization, were always able to defeat such efforts. For about seven years previous to 1921, a condition closely resembling warfare existed in Hardin County. In 1916, sixty-eight men were discharged for forming a union. They had demanded the eight-hour day, recognition of their union, the right to take up

<sup>1</sup> In 1920, Illinois produced 61.77 per cent of the total merchantable fluorspar produced in the United States. The district in Kentucky which lies across the Ohio River from Hardin County, Illinois, produced most of the remainder. Table XIV contains data on the production of fluorspar in Illinois from 1902 to 1922.

TABLE XIV  
PRODUCTION OF FLUORSPAR IN ILLINOIS, 1902 TO 1922\*

Period	Short Tons	Value
1902 to 1917.....	986,334	\$6,404,498
1918.....	132,798	2,887,099
1919.....	92,729	2,430,361
1920.....	120,299	3,096,767
1921.....	12,477	315,767
1922.....	83,855	1,493,188

\* U.S. Geological Survey, *Mineral Resources of the United States* (1922), Part II, p. 15.

Fluorspar is used chiefly in the making of steel, but smaller amounts are used by foundries, by companies manufacturing glass and enamel ware, and by makers of hydrofluoric acid (U.S. Geological Survey, *Mineral Resources of the United States* [1922], Part II, p. 21).

their grievances with the company, improved conditions in the mines, and competent licensed engineers in charge of the hoisting machinery. The fluorspar miners were all native Americans. All of them were from southern Illinois and Kentucky. In carrying on their struggle, they were aided by the Illinois State Federation of Labor and the United Mine Workers of America.<sup>1</sup>

In 1919, a bill providing for better conditions in the mines was introduced into the legislature, but it was tabled toward the close of the legislative session. In 1921, delegates from various labor unions in Illinois held a convention at Springfield at which a bill was agreed upon for introduction into the General Assembly. This bill and one introduced by the spar-mining companies were merged into one bill which was passed by both houses and signed by the governor.

This law, which was based upon a model bill drafted by a committee from the American Mining Congress,<sup>2</sup> is more than forty pages long, and contains elaborate provisions governing every phase of metal-mining operations. These provisions will not be analyzed, inasmuch as they are similar to those of the coal-mining law, which has been discussed very fully in the preceding sections. Administration of the law was placed in the hands of an inspector of mines who serves under the jurisdiction of the Department of Mines and Minerals.<sup>3</sup>

<sup>1</sup> See Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1921), p. 81, and *Weekly News Letter*, June 24, 1916, and July 23, 1921.

<sup>2</sup> The final draft may be seen in *Bulletin No. 75* of the United States Bureau of Mines.

<sup>3</sup> *Laws of 1921*, p. 526.

In 1925, an amendment was passed which provided that the statistical report of the inspector should be published as part of the annual coal report, instead of as a separate document (*Laws of 1925*, p. 472).

## CHAPTER XIII

### REGULATION OF OCCUPATIONS AND APPRENTICESHIP

In this chapter we shall discuss two types of laws which are rather minor in character. The first type includes apprenticeship laws which were in force in most, if not all, jurisdictions during the early history of the United States, but which are now obsolete. The second type, those regulating or licensing certain occupations for the benefit of the public or of the particular group affected, is of more recent development.

#### APPRENTICESHIP LAWS

In 1819, the year after Illinois was admitted to statehood, the General Assembly passed an apprenticeship law. It provided that any white person under 21 years of age might by his own free will and accord and with the consent of his or her father be bound to serve as an apprentice "in any art or mystery, service, trade, employment, manual occupation, or labor." Such indenture was to continue in force until the apprentice reached the age of twenty-one, if a boy, or eighteen, if a girl. Justices of the peace were authorized to discharge apprentices from their apprenticeship if the master or mistress was guilty of cruelty or ill-treatment, or failed to provide necessary food and clothing, or if the apprentice absented himself from service or was guilty of any misdemeanor or ill-behavior.<sup>1</sup>

The provisions of a law approved December 30, 1826, were more definite in their requirements. Males under twenty-one and females under eighteen might be apprenticed, with their consent, by a parent or guardian, and overseers of the poor might bind poor children whose parents were unable to take care of them. In all indentures of apprenticeship, a clause was to be inserted providing

<sup>1</sup> *Laws of 1819*, p. 4.

"that the master or mistress . . . shall cause such child to be taught to read and write, and the ground rules of arithmetic; and shall also give unto such apprentice, a new Bible, and two new suits of clothes, suitable to his or her condition, at the expiration of his or her term of service." If the apprentice were a negro or a mulatto, the master was not required to teach him writing and arithmetic. Other sections dealt with procedure to be followed by an apprentice or master who wished to make complaint or obtain redress for wrongs committed by the other.<sup>1</sup>

As the apprenticeship system began to decay, the trade unions tried to revive it. In 1869, they made an unsuccessful attempt to secure the passage of such a law. The objects sought by this movement were to require apprentices to be bound for terms of five years, to compel the master to teach them the entire trade, to make the master responsible for their moral training, and to prescribe a ratio of apprentices.<sup>2</sup>

During the eighties, the labor movement in Illinois demanded the enactment of an "efficient apprenticeship law," which would tend to secure a higher order of workmanship and protect the interests of the employer and the skilled mechanic alike. Several delegates at the Decatur meeting of the Illinois Labor Convention in 1886 believed it to be impossible to secure the enactment of a law of this kind under the existing system of industrial education, which permitted every boy to gain an imperfect knowledge of a trade by working a few months and then to direct his attention to some other trade. George A. Schilling proposed that industrial schools be established in connection with the public schools, but A.

<sup>1</sup> *Revised Code of 1826-27*, p. 54. Some minor changes were made in 1845, 1854, 1859, 1861, and 1903 (*Revised Statutes, 1845*, p. 52; *Laws of 1854*, p. 24; *Laws of 1859*, p. 9; *Laws of 1861*, p. 15; *Laws of 1903*, p. 10).

The amendment of 1903 required the master to give the apprentice \$20 in money, as well as a Bible and two complete suits of new wearing apparel suitable to his condition in life, in all cases in which the term of service was one year or more. In all municipalities where a manual training school was maintained for the technical instruction of apprentices, the master was to send the apprentice to such school for at least three consecutive months in each year, without expense to the apprentice.

<sup>2</sup> Commons, *History of Labour in the United States*, II, 83.



C. Cameron stated that this could not be accomplished in view of the fact that the public schools in large cities like Chicago were unable to provide seating capacity for a third of the people deserving a common-school education and the taxpayers would object to the additional cost of providing industrial schools. He stated that "an apprenticeship law would compel a father and an employer to enter into a contract to give a boy a thorough knowledge of a trade, and thus in a measure do away with the curse of labor—the jack of all trades and master of none."<sup>1</sup>

It is interesting to note that organized labor at the present time is attempting to secure the repeal of the Illinois apprenticeship law. Bills of this kind were introduced in 1919 and in 1925. Both of them passed the Senate but were tabled in the House at the close of the legislative session. In 1927, the State Federation again favored the passage of the bill. Its official organ stated: "The antiquated statute is a menace to the development of modern apprenticeship and should be repealed. Its only use, if it can be used at all, is to promote child labor."<sup>2</sup>

[In connection with our discussion of the indenture of apprenticeship, we may well mention state regulations relative to slavery and to adults serving under indenture or contract. The first constitution of the state of Illinois, adopted August 26, 1818, provided that neither slavery nor involuntary servitude should thereafter be introduced into Illinois, except for the punishment of crimes of which the party had been duly convicted. No male person arrived at the age of twenty-one years, and no female person arrived at the age of eighteen years, was to be held for service under any indenture thereafter made, unless such person entered into the indenture while in a state of perfect freedom and on condition of a bona fide consideration in return for his service. No indenture of a negro or mulatto thereafter made and executed out of the state, or made within the state, if the term of service exceeded one year, was to be valid, except those given in cases of apprenticeship. No person bound to labor in any other state was to be hired to labor in Illinois,

<sup>1</sup> *Chicago Times*, June 3, 1886, p. 6.

<sup>2</sup> *Weekly News Letter*, May 7, 1927.

except at the Shawneetown salt works, and not even at that place for a longer period than one year at a time, and not at all after 1825. Persons bound to service by contract or indenture under the laws of Illinois territory were to be held to specific performance of such contracts or indentures.<sup>1</sup>

In obedience to a constitutional mandate,<sup>2</sup> the General Assembly passed laws, known as the Black Laws, designed to prevent the immigration and residence of free negroes in the state, and to prevent the owners of slaves from bringing them into the state for the purpose of setting them free. These laws were in effect in Illinois until the close of the Civil War. After emancipation had been effected, John Jones, a mulatto well known in Chicago, carried a petition through the streets of that city, asking for the repeal of these laws. He went to Springfield during the legislative session, and with the support of certain influential citizens, secured their repeal.<sup>3</sup>

#### REGULATION OF OCCUPATIONS

The most important Illinois laws regulating occupations are those relating to coal-mining. In the interest of safety, all persons acting as mine managers, mine examiners, and hoisting engineers are, as we have seen, required to pass examinations and obtain certificates of competency from state authorities. Coal-miners are also required to pass examinations as to their knowledge of mining and their fitness for the occupation; but the law in this case was demanded by the miners not only to insure greater safety, but also to strengthen the union. These laws form an integral part of the mining code of the state, and are discussed in chapter xii.

<sup>1</sup> *Constitution of 1818*, article vi, sections 1, 2, and 3.

<sup>2</sup> *Constitution of 1848*, article xiv.

<sup>3</sup> *Laws of 1865*, p. 105. An account of this movement may be found in Andreas, *History of Chicago*, I (1884), 604.

White laborers in some places were incensed at having to meet the competition of negroes for employment. At Calumet, for instance, negroes were hired to do some woodcutting. The white laborers "swore vengeance upon the 'damned negroes,' and vowed that they should not be allowed to go to work." See *Chicago Tribune*, January 16, 1863.

In addition to laws concerning the occupation of mining, the General Assembly has from time to time passed a number of other laws requiring individuals desiring to practice other professions or occupations to pass examinations and obtain licenses from state authorities. We shall merely mention those requiring lawyers, doctors, nurses, pharmacists, optometrists, structural engineers, and mason contractors to obtain licenses before practicing their profession; and shall very briefly discuss such other laws as are more clearly labor laws.

#### STATIONARY ENGINEERS, ELEVATOR OPERATORS, AND CHAUFFEURS

The first of these, passed in 1889, authorized local authorities to adopt ordinances providing for the examination, licensing, and regulation of persons having charge of steam boilers.<sup>1</sup> A similar law with regard to elevator operators was passed in 1903.<sup>2</sup> Another law, passed in 1911, and favored by organized labor, required chauffeurs of public automobiles to obtain licenses before operating such vehicles.<sup>3</sup> This law was upheld by the Illinois Supreme Court in the case of *People v. Sargent*, 254 Ill. 514 (1912). President E. R. Wright, of the Illinois State Federation of Labor, stated that "while this law is not very important of itself, the decision strengthens laws drawn upon the same theory—the protection of specified interests by bringing them under state regulation."<sup>4</sup>

#### PLUMBERS

In 1897, the General Assembly enacted a law providing for the licensing of plumbers and the supervision and inspection of plumbing. Persons following the occupation of plumbing in towns of 5,000 or more people, either as masters or as journeymen, were required to pass an examination and obtain a certificate from a board of examiners. Every city of 10,000 or more inhabitants was to have a board of examiners composed of the chairman of the board of health, a master plumber, and a journeyman plumber. Appli-

<sup>1</sup> *Laws of 1889*, p. 88.

<sup>2</sup> *Laws of 1903*, p. 96.

<sup>3</sup> *Laws of 1911*, p. 494, sec. 13, Motor Vehicle Law.

<sup>4</sup> Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1912), p. 31.



cants were to be examined as to their practical knowledge of plumbing, house drainage, and plumbing ventilation.<sup>1</sup>

#### HORSESHOERS

The General Assembly of 1897 also provided for the examination and licensing of horseshoers. About this time, the International Union of Journeymen Horseshoers, following the example of the doctors, the plumbers, and others, was attempting to secure legislation fixing the qualifications and thus limiting the number of persons engaging in the occupation.<sup>2</sup> The act passed in Illinois declared it to be unlawful for any person to practice the occupation of horseshoeing without first obtaining a license from a board of examiners, appointed by the governor and consisting of two master horseshoers, two journeymen horseshoers, and a veterinary surgeon. Applicants for license must have worked at the occupation at least four years. Horseshoers' apprentices were required to serve four years, and, if convenient, were to attend a course of lectures on the anatomy of the horse's foot each year in some institution offering such lectures. After serving a four years' apprenticeship, the apprentice was to submit to an examination by the board of examiners before being given a license to practice. This act applied only to cities of 50,000 or more inhabitants, but those having a population of 10,000 or more had the option of coming under its provisions.<sup>3</sup>

The Illinois Supreme Court in 1901 declared this act unconstitutional because it was "impossible to conceive how the health, comfort, safety or welfare of society" was

to be promoted by requiring a horse-shoer to practice the business of horse-shoeing for four years, and submit to an examination by a board of examiners, and pay a license fee for the privilege of exercising his calling. The ends to be secured by the exercise of the police power are the public health, comfort, safety or welfare, but this measure has no relation to the ends thus specified.

<sup>1</sup> *Laws of 1897*, p. 279. Amendments were passed in 1909 and 1917 (*Laws of 1909*, p. 132; *Laws of 1917*, p. 520).

<sup>2</sup> *Report of the U.S. Industrial Commission*, XVII (1901), 302.

<sup>3</sup> *Laws of 1897*, p. 233.



The act thus constituted an unwarranted invasion of the constitutional rights and privileges of the individual citizen. A further reason for its invalidity was its applicability only to those horseshoers living in cities of a certain size.<sup>1</sup>

An act passed in 1915 was designed to avoid the Supreme Court's objections to the previous act while providing the desired restrictions. This law<sup>2</sup> declared it to be unlawful for any person to follow the occupation of horseshoeing without first obtaining a certificate of registration. A state board of examiners was created for the purpose of examining and licensing applicants. All persons actually engaged in the business were to be given licenses without an examination; but other applicants were required to present a certificate from some reputable veterinary surgeon to the effect that they understood the anatomy of a horse's leg and foot, and had to present evidence that they had studied and practiced horseshoeing for a period of three years under a practicing horseshoer, and that they possessed the necessary skill to carry on the occupation.

By making the law applicable to all the horseshoers in the state (upon the advice of a member of the Illinois Supreme Court),<sup>3</sup> and by passing it as a revenue measure and as a measure designed to protect horses from maltreatment by unskilled horseshoers, it was believed to be clearly constitutional. Thus far no action has been taken to test the validity of the law although a coal operator who was fined a few years ago for violation of its provisions declared he would do so. At each legislative session since 1923, Representative Norman G. Flagg (in 1927, state Senator), of Moro, Illinois, has introduced bills to repeal the law; but joint opposition by the Master Horseshoers' Association, the Journeymen Horseshoers' Union, and the Illinois State Federation of Labor has prevented their passage.<sup>4</sup>

<sup>1</sup> *Bessette v. People*, 193 Ill. 334 (1901).

<sup>2</sup> *Laws of 1915*, p. 428.

<sup>3</sup> Statement of Mr. J. W. Huening, of the State Board of Examiners.

<sup>4</sup> Mr. Flagg states that he has no greater objection to this law than to many others which he considers superfluous. Statement of Mr. Huening.

## BARBERS

Influence exerted by the Journeymen Barbers' International Union of America and the various labor organizations of Illinois,<sup>1</sup> led to the enactment in 1909 of a law requiring persons practicing the occupation of barbering to obtain a certificate of registration from a state board of examiners created by the law. Applicants for certificates were required to show that they had studied and practiced the trade for three years as an apprentice, for three years in a barbers' school, or had practiced the trade for at least three years in Illinois or in other states, and that they were possessed of the requisite skill for carrying on the occupation. The board of examiners was to investigate complaints concerning the sanitary condition of barber shops, or complaints that contagious diseases had been contracted in such shops.<sup>2</sup>

The Barbers' Board of Examiners met with great opposition when it attempted to compel all persons practicing the trade to obtain licenses. Graduates of barbers colleges applied in large numbers, but since they had had only from three to five weeks' training, the Board required them to serve a three-year apprenticeship. A protective association was formed for the purpose of testing the constitutionality of the law. Judge Scovel, of the municipal court of Chicago, however, upheld its constitutionality on April 28, 1910.

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1913), p. 141.

<sup>2</sup> *Laws of 1909*, p. 98. The law was amended in 1923 so as to exclude beauty shops or hairdressing parlors patronized by women, except as to the cutting of hair (*Laws of 1923*, p. 165). In 1925, a law was passed requiring persons operating beauty parlors to submit to an examination before practicing the occupation (*Laws of 1925*, p. 174).

In 1927, the barbers' union secured the enactment of amendments to the barbers' qualification law which they believe represent a substantial improvement (*Laws of 1927*, p. 187). Persons desiring to follow the occupation of barbering in Illinois must have completed the eighth grade of school and obtain a license from the State Department of Registration and Education. (The persons serving on the examining board are selected by the Master Barbers' Association and the journeymen barbers' state organization. See Illinois State Federation of Labor, *Weekly News Letter*, July 23, 1927.) It was also made unlawful for anyone to operate a barber school without a permit from the Department.

The case was appealed to the Supreme Court, but the association allowed it to go by default. Somewhat later, the Missouri Supreme Court upheld the Missouri law, from which several sections of the Illinois law had been copied.<sup>1</sup> The Illinois law was later upheld by the Illinois Supreme Court in the case of *People v. Logan*, 284 Ill. 83 (1918), as being a proper exercise of the police power of the state. The requirement of three years' apprenticeship was held to be a reasonable restriction upon the right to engage in the occupation.

In 1913, Governor Dunne vetoed an appropriation for the support of the Board of Examiners, and in 1915 no appropriation was made. In 1917, the appropriations committee of the senate refused to approve an appropriation for the Board on the ground that since the law had been passed for the purpose of insuring cleanliness in barber shops and to prevent the spread of communicable diseases, the function of inspection should reside in the State Board of Health and should be performed by experts, not by laymen. Friends of the Board of Examiners, however, induced the House appropriations committee to approve an appropriation, and the Senate committee was then prevailed upon to reverse its previous action.<sup>2</sup>

The fact that the administration of the law was placed in the hands of practical barbers instead of in the State Board of Health, coupled with the fact that the barbers' union was the chief proponent of the bill, may serve as an indication that the real purpose of the law was to strengthen the union rather than to prevent the spread of communicable disease and to insure cleanliness. The latter objects would serve as ostensible reasons and would of course appeal to the average legislator. In summing up the work of the 1909 General Assembly with respect to labor legislation, Professor Ernst Freund said:

The other measures enacted are of little importance if not absolutely trivial. The barbers' licensing act is of familiar type; it is questionable

<sup>1</sup> Report of the Barbers' State Board of Examiners, in *House Journal*, 1913, p. 507.

<sup>2</sup> Report of the Efficiency and Economy Commission, *Senate Journal*, 1919, p. 1766.

whether the Legislature when it passed the bill knew that similar measures had been repealed in several states after brief experience. The chief effect of such legislation seems to be to strengthen the hold that the trade organization has over members of the trade, certainly not a legitimate object of legislation.<sup>1</sup>

[Two other laws having to do with the general question of the right to carry on an occupation may be mentioned here. One of these laws provided that no person should be debarred from any occupation, profession, or employment (except military) on account of sex. Nothing in the act, however, was to be construed as requiring any female to work on streets or roads, or to serve as jurors (*Laws of 1871-72*, p. 578).

The other law prohibited any person from depriving members of the national guard or naval reserve of their employment, preventing their employment, obstructing or annoying such members in respect of their trade, business, or employment, or from dissuading any person from enlistment by threat of injury to him, if he did enlist, in respect of his employment, trade, or business (*Laws of 1909*, p. 437).]

<sup>1</sup> Illinois Bureau of Labor Statistics, *Labor Legislation of the 46th General Assembly* (1909), p. 1. Attempts have been made on various occasions to secure the enactment of other laws of this character, for example, laws licensing painters and decorators, auto mechanics, railroad telegraphers, etc.



## CHAPTER XIV

### UNEMPLOYMENT

Efforts on the part of the state of Illinois to relieve the unemployment problem have for the most part been confined to the regulation of private employment agencies and the establishment of free public employment offices. Before discussing these activities, however, we shall mention briefly certain gestures that have been made in other directions in an endeavor to improve the unemployment situation and to correct the abuses accompanying it.

#### SOME MINOR MEASURES

In 1889, Governor Fifer urged the General Assembly to pass a law providing that only American citizens, or those intending to become such, should be employed on the public works of the state. He believed that a great wrong was being done to American workmen by the importation of cheap foreign labor which was permitted to compete for employment in the American labor market to the great detriment of American citizens. He realized that a single state could do very little to relieve the situation, but believed that a law embodying his suggestions would effect some improvement.<sup>1</sup>

The General Assembly accordingly passed a bill prohibiting disbursement of public funds, raised by taxation, to anyone except native born or naturalized citizens of the United States or persons who had in good faith declared their intention to become citizens.<sup>2</sup> The act was declared unconstitutional in 1903 on the ground that it interfered with freedom of contract.<sup>3</sup>

We shall also make brief mention of another bill which is discussed more fully elsewhere.<sup>4</sup> Serious riots at Virden and Pana

<sup>1</sup> *House Journal*, 1889, p. 44.

<sup>2</sup> *Laws of 1889*, p. 2.

<sup>3</sup> *City of Chicago v. Hulbert*, 205 Ill. 347 (364) (1903).

<sup>4</sup> See pp. 68 ff.

following the importation of negro strikebreakers under armed guards by coal operators led Governor Tanner to urge the enactment of a law prohibiting such practices in Illinois. A bill was accordingly passed in 1899 which not only embodied this suggestion, thus giving some protection to men who were on strike or who were locked out, but also attempted to protect men being brought into the state by prohibiting the use of deception, misrepresentation, false advertising, false pretenses, and unlawful force in procuring such employees. Failure to mention the existence of labor troubles when hiring such men constituted a violation of the act. This act was also declared unconstitutional.<sup>1</sup>

In 1909, following some fifteen months of hard times, a gesture was made toward providing employment for the unemployed. A resolution (H.J.R. No. 18) was introduced into the House which provided that when there were "more than ten or fifteen thousand unemployed" in any Illinois city, continuous employment at short hours and living wages should be provided upon the roads, waterways, and other public works. Unemployed persons were to receive free transportation from centers of unemployment to places of employment. This resolution was referred to the Committee on Labor and Industrial Affairs, but it was not reported to the House.

A measure similar to the one mentioned above was passed in 1919. In that year the legislature adopted a joint resolution (S.J.R. No. 11) urging all municipalities and public bodies to start work at once on public improvements, and offering to pass legislation necessary to assist such work, on the grounds that employment should be provided for returning soldiers and sailors, and that working people generally, as American citizens, are entitled to living wages and good living conditions. Very little, if anything, was actually done.

In 1921, during the period of severe unemployment, another resolution (H.R. No. 26) was introduced which provided for a special committee to investigate the labor situation in the steel industry of Illinois, with a view to relieving unemployment by substi-

<sup>1</sup> *Josma v. Western Steel Car Co.*, 249 Ill. 508 (1911).

tuting the eight for the twelve-hour day and hiring the unemployed to fill the additional places, if such a change were feasible. No further action was taken, however.

We now come to a discussion of the more sustained and better considered efforts of the state to meet the unemployment problem.

#### THE ACT OF 1899

The Illinois Bureau of Labor Statistics in its *Tenth Biennial Report*, 1898, devoted considerable space to a discussion of the abuses practiced by private employment agencies, which had been preying upon the unemployed during the years of business depression following the panic of 1893, and undertook to show the need, both economic and humanitarian, of establishing free public employment offices in the principal cities of the state. The Bureau did not make a detailed investigation of the private employment agencies then existing in the state but outlined the experience of other states and foreign countries with this type of agency as disclosed by official reports. It was believed that the pictures presented by these official reports could be duplicated in any considerable city of Illinois and might be sadly discounted by many of the employment agencies of Chicago. For a number of years prior to 1896, the city of Chicago required all private employment agencies to obtain a license to operate and charged a fee of \$100 per annum for the privilege. In 1896, the year the ordinance was repealed, 196 of these licenses were issued. Thereafter no enumeration was made, but the Bureau stated that the city was honeycombed by these agencies.<sup>1</sup> Although it was admitted that there were undoubtedly many private agencies that were conducted with some degree of honesty, it was believed that the most active of the Chicago agencies were worse than those described in the official reports of other states. One common abuse was the practice of charging a fee to the person seeking employment but making no effort to find work for him. Excessive fees were often charged for the service actually performed. Workers were often sent to some distant locality although the agent had no call for work from that

<sup>1</sup> Illinois Bureau of Labor Statistics, *Tenth Biennial Report* (1898), p. 133.



place. It was the intention of the agent to send the men so far away that they could not easily return to institute prosecution for the offense. Newly arrived immigrants were easily victimized in this way. In some instances workers were sent to some contractor who gave them employment for a few days, discharged them, and hired new workers through the same agency, a profit accruing to both contractor and agency by a division of the fees collected. Even where no such collusion existed, the work obtained was usually of a temporary character. The temporary character of the work was not necessarily an abuse practiced by the agency, but it easily lent itself to abusive practices; for instance, the worker might have been directed to the employer and charged an excessive fee for the service and when the work was completed and the worker discharged the agency might collect another excessive fee for a similar service. Private employment agencies were often run in connection with saloons, and the men, although promised work, were put off from day to day until they had spent in the saloon all the money they possessed.<sup>1</sup> Women were many times referred to houses of ill-repute. These are a few of the abuses practiced by many employment agencies wherever they existed.

The positive proposal of the Bureau was the establishment of free public employment offices in the principal cities of the state, and a bill, drafted by the Bureau and embodying its recommendations,<sup>2</sup> was submitted to the General Assembly. The need for ac-

<sup>1</sup> In 1895, the Industrial Committee of the Civic Federation of Chicago investigated charges made by the National Association of Waiters, Bartenders, and Cooks, who claimed that a great injustice was inflicted upon waiters since situations could be obtained only through saloons which served as private employment agencies. It was found to be substantially true that a waiter could not obtain employment unless he spent part of his wages and his leisure in the saloon, and that he was naturally discriminated against if the amount he spent was small. He was practically in the power of the saloon-keeper and was almost obliged to be on the spot when vacant jobs were reported. See Civic Federation of Chicago, *First Annual Report of the Central Council* (1895), p. 76.

<sup>2</sup> The measure "emanated absolutely from the Bureau of Statistics of Labor." Statement by Mr. David Ross, secretary of the Bureau, in Association of Officials of Bureaus of Labor Statistics of America, *Proceedings of the 17th Annual Convention* (1901), p. 160.



tion of this sort by the state was emphasized, and the probability of good results, if such agencies were established, was indicated by citing the experience of other states and countries which had tried a similar experiment.

Residents of Hull-House made an investigation of private employment agencies in their immediate vicinity, and, as a result of their disclosures, threw themselves eagerly into the movement for free public employment offices.<sup>1</sup> Organized labor was also an important factor in this movement.<sup>2</sup>

In the legislature opposition to the establishment of free public employment offices was based upon two arguments: first, that it was no part of the legitimate functions of the state to furnish employment to people seeking work; second, that the actual results in the states where free employment offices had been established were not sufficient to justify the spending of state money for such purpose. The first of these reasons proved most effective with legislators who were less concerned about the slight tax that would be involved than with being committed to what seemed to be a socialistic and therefore undesirable policy. The second reason appealed to those who desired to appear as champions of economy in the expenditure of public funds<sup>3</sup>—a perfectly legitimate stand if the work “economy” is not taken to mean mere niggardliness.

The General Assembly of 1899, however, passed the bill and Illinois became the fifth state to provide free public employment offices, Ohio, in 1890, having been the first state to legislate upon the matter. The following were the chief provisions of the Illinois law:<sup>4</sup>

One free employment office was to be established in each city in the state having 50,000 or more inhabitants, and three in each city of 1,000,000 or over. These offices were to receive applications of persons seeking employment or desiring to employ help (sec. 1). The act was to apply to any and all legitimate work,

<sup>1</sup> Jane Addams, *Twenty Years at Hull-House* (1910), p. 221.

<sup>2</sup> *Bridgemen's Magazine*, December, 1901, p. 182.

<sup>3</sup> Illinois Free Employment Offices, *Second Annual Report* (1900), p. 9.

<sup>4</sup> *Laws of 1899*, p. 268.

professional service as well as manual labor (sec. 9). The governor of the state was to appoint, upon recommendation by the State Board of Commissioners of Labor and with the advice and consent of the Senate, a superintendent, an assistant superintendent, and a clerk for each of the offices created by the act.<sup>1</sup> The superintendent of each office was to receive and record the names of all persons applying for employment or help, and the character of the employment or help desired (sec. 3). No fees were to be charged for this service (sec. 7). Interpreters might be employed when necessary (sec. 6). Such data concerning these applications were to be obtained as might be required by the State Bureau of Labor Statistics (sec. 3). Each superintendent was to report on Thursday of each week to the State Bureau of Labor Statistics the number of applications for positions and for help received during the preceding week, and the unfilled applications remaining on the books at the beginning of the week. Upon receipt of these lists, and not later than Saturday of each week, the secretary of the Bureau of Labor Statistics was to mail sheets to each superintendent showing separately and in combination the lists received from the various offices. A copy was also to be sent at the same time to each state inspector of factories and each state inspector of mines. The last-named officials were to assist in securing situations for applicants for work, and were to state the character of the work and the cause of the scarcity of workmen, and to secure for the free employment offices the co-operation of the employers of labor in factories and mines. They were to notify the superintendents of free employment offices of such vacancies or opportunities for employment as might come to their notice.<sup>2</sup> Each superintendent was to endeavor to secure the co-operation of the principal manufacturers, merchants, and

<sup>1</sup> The salary of each superintendent was to be \$1,200, that of assistant superintendents \$900, while clerks were to receive \$800 per annum. The assistant superintendent or the clerk was in each case to be a woman (sec. 2). Superintendents not duly diligent or energetic in the performance of their duties might be recommended by the Board of Commissioners of Labor to the governor for removal (sec. 11).

<sup>2</sup> Section 4. This was an advanced provision and had great potentialities for good, but the provision was disregarded. Report to the Bureau of Charities of Chicago, 1901, quoted by Frances A. Kellor in *Out of Work* (1904), p. 249.

other employers of labor in carrying out the provisions of the act. The free employment offices might advertise in the daily newspapers for such situations as they had applicants to fill, and were allowed to advertise in a general way for the co-operation of large contractors and employers in trade journals suitable for this purpose. The sum of four hundred dollars was fixed as the maximum yearly amount to be spent for advertising by any one office.<sup>1</sup> No superintendent was to furnish workmen to any applicant for help whose employees were at that time on strike or locked out (sec. 8). This provision did not occur in the law of any other state and was included in the Illinois act out of consideration for the "rights" of organized labor.<sup>2</sup>

Private employment agencies charging a fee to applicants for employment or for help were to be required to obtain a license from the secretary of state for the privilege of operating. A license fee of \$200 a year was charged, and in addition a bond of \$1,000 was required "for the faithful performance of the duties of private employment agent" (sec. 10). It was believed that this provision would permit only the most reputable agencies to operate, and that even these would ultimately disappear as a result of competition by the free public agencies.<sup>3</sup> Private agencies were prohibited from designating themselves by any name similar to that of the Illinois

<sup>1</sup> Section 5. Each superintendent was to report annually to the State Bureau of Labor Statistics concerning the work of his office, including a statement of expenses. These reports were to be published by the Bureau annually in its coal report. (Owing to public interest in the matter, the Bureau also published a limited edition of separate copies of the annual reports.) Each superintendent was also to assist in the collection of such statistics on labor as the secretary of the Bureau might require (sec. 6).

<sup>2</sup> Illinois Free Employment Offices, *First Annual Report* (1899), p. 13.

The coal-miners were opposed to the establishment of free public employment offices because they were afraid the offices would be used as recruiting offices by the employers in such way that men and women in the "most desperate conditions" would be allowed to set wages and conditions for everyone. Before the miners would agree to the establishment of the offices, the "strike" clause had to be inserted in the bill. See Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1922), p. 220, statement of President John H. Walker.

<sup>3</sup> Illinois Free Employment Offices, *First Annual Report* (1899), p. 13.



Free Employment Office. This provision was retained in each successive act dealing with private employment agencies.

Immediately after the 1899 act went into effect, the Bureau of Labor Statistics furnished the state's attorney of Cook County with a list of about two hundred private employment agencies in the city of Chicago. He at once sent a notice to the various agencies, calling attention to the provisions of the law, requesting compliance therewith within a reasonable period of time, and threatening prosecution should they fail to comply. An organization was effected by these private agencies and a test case brought before the courts to determine the constitutionality of section 10.<sup>1</sup> The Illinois Supreme Court, in affirming the decision of the lower court, upheld the constitutionality of the section in question.<sup>2</sup> The private agencies had contended that section 10 was void because it was unreasonable and oppressive and prohibitive, not regulative, but the Supreme Court overruled all their objections.

A second attack, however, disclosed a vulnerable point in the act. In the case of *Mathews v. People* an attack was directed upon section 8, which prohibited superintendents of free employment offices from furnishing workmen or lists of workmen to employers whose men were on strike or locked out. The court held<sup>3</sup> that this provision was repugnant to the constitution in that it aided strikes, regardless of their justice. It was stated that the legislature had no power to deny to an employer whose men were out on strike or were locked out the right to obtain workmen from free employment offices and at the same time grant such right to other employers not similarly circumstanced. Inasmuch as section 8 was held to be inseparable from the other provisions, the whole act was declared void. Section 10, which had been upheld in the former case when it alone was passed upon, was declared to depend upon all the other provisions, and was so connected with them that it could not stand by itself.

The principal object of the act had been to prevent the abuses

<sup>1</sup> Illinois Free Employment Offices, *Second Annual Report* (1900), p. 9.

<sup>2</sup> *Price v. People*, 193 Ill. 114 (1901).

<sup>3</sup> *Mathews v. People*, 202 Ill. 389 (1903).



practiced by private employment agencies, but the act had remained a dead letter from the time of its enactment, since, in addition to strong opposition by the private agencies, the legislature had failed to provide the necessary machinery for its enforcement, had failed to prescribe regulations governing the operation of private employment agencies, and to make an appropriation for its support.<sup>1</sup> A House committee appointed in 1901 investigated practices of the private employment agencies in Chicago, and found that they were being operated contrary to law. The license fee required by section 10 had been paid by only one of the ninety-six private agencies in Chicago. Several agencies had advertised positions for which they had no request and depended upon canvassing for the particular position among business firms after the applicant had answered the advertisement and paid his registration fee. The committee recommended that section 10 be so amended as to prevent the acceptance of an advance fee or registration fee, this being the cause of nearly all the complaints. It further recommended that the governor appoint an attorney to prosecute agencies failing to pay their license fees or otherwise violating the law. A bill to amend section 10 was drafted and recommended for passage, but it died on order of third reading. The committee found that the free employment agencies were "doing a good work for the poor people," but that more funds were needed for advertising purposes and to secure from the large business houses lists of help wanted.<sup>2</sup>

Before the Supreme Court handed down its decision in the Mathews case, Governor Yates, in his message to the General Assembly,<sup>3</sup> called attention to the difficulty that had been experienced in enforcing the act and urged that certain changes be made. Following suggestions offered by the Bureau of Labor he urged that the license fee required of private employment agencies be reduced, since the fee of \$200 per annum was excessive and worked hardship upon many persons legitimately engaged in the business.

<sup>1</sup> U.S. Bureau of Labor, *Bulletin No. 68*, January, 1907, p. 15, by J. E. Connor.

<sup>2</sup> *House Journal*, 1901, pp. 218; 625-26.

<sup>3</sup> *Ibid.*, 1903, p. 32.

He further recommended that the law be amended so as to require all private employment agencies to keep a record showing the number of applications received and the disposition made of the same, to regulate the amount charged for registration, to prohibit such agencies from sending female help to places of questionable reputation, and to provide that the records of such agencies be open at all reasonable times to the inspection of the commissioners of labor or their representatives.

#### LAW OF 1903

The decision in the Mathews case was filed on April 24, 1903, and the legislature, which was in session at the time, immediately passed a new law,<sup>1</sup> approved and in force on May 11, 1903, which omitted the objectionable clause and contained other important improvements especially with regard to the regulation of private employment agencies.<sup>2</sup> Every private employment agency charging fees was required to obtain a license from the state commissioners of labor. The license fee in cities of 50,000 population and over was to be \$50 a year, and in cities of less than 50,000 population \$25. The license was to state the name of the city and the street and the number of the building in which the employment agency was to be conducted. The license, together with a copy of the act, was to be posted in a conspicuous place in every employment agency. The commissioners of labor were to require a bond

<sup>1</sup> *Laws of 1903*, p. 194.

<sup>2</sup> The salaries of the superintendents of free employment offices were raised from \$1,200 to \$1,500 a year, those of the assistant superintendents from \$900 to \$1,200, and those of the clerks from \$800 to \$1,000. The inoperative provision of the former act relating to co-operation with the free employment offices by the state factory inspectors and the state mine inspectors was omitted. The limit formerly fixed upon the amount each superintendent might spend for advertising was removed. All moneys received from fees and fines were to constitute a fund for the purpose of enforcing the provisions of the act. This fund was to be held by the commissioners of labor. Any balance remaining at the end of each fiscal year was to be paid into the state treasury (sec. 12). (In 1909 an amendment was passed authorizing the secretary of the commissioners of labor to act as custodian of the fee and fine fund. He was required to execute a bond in a sum to be fixed by the commissioners of labor conditioned upon the faithful performance of his duties [*Laws of 1909*, p. 201]).

of \$500 from each applicant for license, conditioned that the obligor would not violate any of the provisions of the act (sec. 9). Charitable organizations were not to be considered private employment agencies within the meaning of the act (sec. 11).

Every licensed agency was to keep a register containing the name and address of every applicant for employment or for help, as well as the name and nature of the employment for which such help was wanted. Such registers were to be open at all reasonable hours to inspection by the commissioners of labor or their agents. The registration fee charged for receiving and filing applications for employment or help was not in any case to exceed \$2, and a receipt was to be given to the applicant stating the name of the applicant, the amount of the fee, the date, and the name or character of the work to be procured. In case the agency did not obtain employment for an applicant within one month after registration, it was to repay, upon demand, the full amount of the fee, provided the return of the fee was demanded within thirty days after the expiration of the month aforesaid (sec. 9).

No agency was to send any female help or servants to any place of bad reputation or house or place of amusement kept for immoral purposes. No such licensed agency was to give false information or make false promises to applicants for employment, or make false entries in its register. No employment office was to be conducted in, or in connection with, any place where intoxicating liquors were sold (sec. 9).

The commissioners of labor, and the secretary thereof, were to enforce the act. Persons convicted of violating its provisions were to be fined from \$50 to \$100 for each offense, or imprisoned in the county jail for a period not exceeding six months, or be both fined and imprisoned at the discretion of the court (sec. 10).

#### DEFECTS IN THE 1903 LAW

The 1903 act proved to be much more satisfactory than the one it superseded. The former act was almost completely inoperative even before it was declared unconstitutional, but the new act was much more specific in its requirements and provided definite,



though inadequate, machinery for enforcement. There were, however, a number of serious defects in the 1903 law. The definitions of "employment agent" and "fees" were ambiguous. Although the maximum "registration fee" which the employment agent might charge was fixed by law at two dollars, the term was not carefully defined, but was interpreted by the attorney-general<sup>1</sup> in such manner, and necessarily so, as in no way to limit the right of free contract. This meant that an agent might lawfully charge any amount he was able to exact for a particular service. Besides this the registration system was almost never used by agents in supplying unskilled workers.<sup>2</sup> Although the fee could not be fixed by law, without conflicting with the judicial interpretation of the right of free contract, publicity of fees charged might have been required. This was done in Pennsylvania, for instance, by requiring the agency to file with the officer in charge of enforcement of the act a list of fees it intended to charge, and to post a similar list in its office. To exceed this published list was made an offense under the law. All division of fees with contractors or employers should have been forbidden by the Illinois act. Furthermore, the contracts on which the workers were sent out should have been more specific and the receipts given should have stated in a language the worker could understand full and exact information concerning the job to which he was referred. Such a contract or receipt would give better grounds for prosecution if conditions did not prove to be as represented by the agent. The contract or receipt should have stated to whom complaint of its violation should be made. The provision in the Illinois law relating to return of fees was inadequate. It should have been required that the fee be refunded immediately, or at least within a few days, in case the worker did not obtain work at the place to which he was sent. To require a man to wait thirty days might be a great hardship in many cases. Moreover, no provision was made for refunding any part of the fee in case the employment obtained proved to be of a temporary

<sup>1</sup> Opinion given the commissioners of labor on May 13, 1908.

<sup>2</sup> "The Chicago Employment Agency and the Immigrant Worker" by Grace Abbott, in *American Journal of Sociology*, November, 1908, p. 296.



character. Some such provision was needed in order to prevent collusion between the agent and the employer whereby men would be given employment for a few days, then discharged, and their places taken by new men sent out by the agency, both employer and agency profiting by a division of the fees charged. The only way to prevent such abuses would be to make the practice unprofitable by compelling a return of fees. A further safeguard would be to give the worker a claim against the agency not only for the fee, but for the time lost and the expense and damages suffered as well, in cases in which he failed to obtain employment as represented by the agent.<sup>1</sup> The inspection of private employment agencies was placed in the hands of the superintendent of the South Side Chicago free public employment office. This arrangement led to adverse criticism since the inspector was thus made supervisor over his rivals in the employment agency business.

With respect to the free employment offices certain defects were obvious. The three Chicago and the other state employment offices<sup>2</sup> should have been co-ordinated and taken out of politics. Although it is true that weekly reports of operations were made, their use did not secure co-operation among the various down-state offices, or even among the three Chicago offices. The offices were inadequately financed and the impression existed even among the officials in Chicago that the only purpose of the offices was to deal with unskilled labor and domestic servants. Some of the officials regarded their work as primarily a charitable one, and expressed the belief that the proper field of the free employment office was to serve the destitute.<sup>3</sup>

<sup>1</sup> These defects are developed in the article by Miss Abbott referred to in the preceding note.

<sup>2</sup> Three offices were established in Chicago when the 1899 act went into operation. Other offices were opened as follows: Peoria in 1901; East St. Louis, 1907; Springfield, 1909; Rock Island-Moline, and Rockford, in 1913. In 1913, an amendment was passed providing for a free employment office in two or more contiguous cities or towns having an aggregate or combined population of not less than 50,000 (*Laws of 1913*, p. 334). This allowed the establishment of an office to serve the cities of Rock Island and Moline.

<sup>3</sup> U.S. Bureau of Labor, *Bulletin No. 109*, October, 1912, p. 53, by Frank B. Sargent.

A bill designed to overcome the inadequacies of that part of the 1903 act which affected private employment agencies was introduced into the legislature in 1907, but failed of passage.

#### PRIVATE EMPLOYMENT-AGENCY ACT OF 1909

Somewhat later the League for the Protection of Immigrants, through its legislative committee, of which Professor Ernst Freund was chairman, the secretary of the State Bureau of Labor Statistics, the inspector of private employment agencies in Chicago, and the legislative committee of the Employment Agents' Association of Chicago held conferences at which a bill was agreed upon which was expected to correct the defects of the 1903 law so far as private employment agencies were concerned. The different interests affected by the proposed bill having compromised their differences before the bill was presented to the legislature in 1909, no opposition developed and it became a law.<sup>1</sup>

The new law<sup>2</sup> was very carefully drawn, and dealt exclusively with private agencies.<sup>3</sup> Provisions for licensing and bonding of private employment agencies, the keeping of registers of applicants for employment and for help, those dealing with the use of fraud, and the penalty provisions, were similar to those of the former act, but were of more detailed character. The terms "private employment agency" and "fee" were carefully defined (sec. 7). Licensed private employment agencies were allowed to charge a registration fee not exceeding two dollars when such agency was at actual expense in advertising the applicant or in looking up his references.<sup>4</sup> Applicants were to be given receipts similar to those required by the former act. No licensed agent was allowed to exact any fee or reward of any sort as a condition of registering or obtaining em-

<sup>1</sup> League for the Protection of Immigrants, *Annual Report* (1909-10), pp. 27, 37-38.

<sup>2</sup> *Laws of 1909*, p. 213.

<sup>3</sup> The act repealed sections 9, 10, and 11 of the 1903 act relating to private agencies.

<sup>4</sup> If the agency failed to furnish a position to the applicant within thirty days, it was required upon demand to return the registration fee within sixty days from date of the receipt, less the amount that had been actually spent by the agency in

ployment for an applicant other than the above-described registration fee; but a further fee, the amount and time of payment of which was to be agreed upon by the agent and the applicant, might be collected by the agent at the time he tendered a position to the applicant. In case the position so tendered was not accepted by or given such applicant, the agent was to return all fees requested by the applicant, other than the registration fee, within three days after demand was made therefor. No licensed agent was allowed to send out any applicant for employment without having obtained a bona fide order therefor; and if it appeared that no employment of the kind applied for existed at the place to which the applicant had been directed, the agent was required to refund, within five days after demand, any sum paid by the applicant for transportation in going to and returning from said place, as well as all fees paid by the applicant. In addition to the receipt for registration fee, receipts had to be given for these additional fees. On the reverse side of all receipts was to be printed in English the name and address of the State Board of Commissioners of Labor and the chief inspector of employment agencies. Every applicant for employment was to receive from the agency a card or printed paper containing the name of the applicant, the name and address of the employment agency, and the written name and address of the person to whom the applicant was sent for employment. If an employee furnished failed to remain one week in a position, through no fault of the employer, a new employee was to be furnished to the applicant for help, if he so desired, or three-fifths of all fees paid were to be returned within four days after demand, provided demand was made within three days of the failure of the worker to accept the position or his discharge for cause. If an employee was

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behalf of the applicant; and an itemized account of such expenditures was to be presented to the applicant on request at the time of returning the unused portion of the fee.

The inspectors of private employment agencies were in favor of abolishing registration fees entirely, since they caused more trouble than anything else; but Attorney John E. W. Wayman thought it best to retain the fee because it might give the inspectors a better hold on the situation.



discharged within one week for no fault of his own, another position was to be furnished to the applicant for employment (sec. 4). Division of fees and the payment of commissions to any persons to whom applicants were sent for employment or help were prohibited (sec. 6).

When workers were sent out as contract or railroad laborers to any place outside the city where the agency was located, the agency was to give to each of the laborers in a language with which the laborer was familiar a statement containing the name and address of the employer, name and nature of the work to be performed, wages offered, destination of the person employed, terms of transportation, and probable duration of employment (sec. 5).

Every licensed agency was required to post in a conspicuous place in each room it occupied the sections of the act dealing with fees, receipts, the employment contract, and the manner of keeping registers of applications for employment or for help, all to be printed in languages which persons commonly doing business with such agency could understand (sec. 4).

Licensed agencies were prohibited from sending female help or servants, or inmates or performers, to enter any questionable place or place of bad repute, or to any house or place of amusement kept for immoral purposes or to any gambling house. No licensed agency was knowingly to permit questionable characters, prostitutes, gamblers, intoxicated persons, or procurers to frequent such agency. Furthermore, such agencies were not to accept the application of any child for employment or to place any child in employment in violation of the Child Labor Laws of June 9, 1897 and of May 15, 1903.

The enforcement of the act was entrusted to the State Board of Commissioners of Labor and an officer known as the chief inspector of private employment agencies who was to be appointed by the governor upon recommendation by the commissioners of labor. The chief inspector was to hold office during the period of incumbency of the governor appointing him or until his successor was appointed. With the approval of the governor he was to appoint one inspector for every fifty licensed agencies or major fraction



thereof, who was to make at least bimonthly visits to every such agency.<sup>1</sup> These inspectors were to see that all the provisions of the act were complied with and were to have no other occupation or business. In case of complaints against licensed agencies, hearings were to be held before the State Board of Commissioners of Labor or the chief inspector of private employment agencies. The State Board of Commissioners of Labor were given power to revoke or to refuse to issue any license for good cause shown within the meaning and purpose of the act. It was made the duty of the Board to revoke the license of persons guilty of any immoral, fraudulent, or illegal conduct in connection with the operation of their agencies. In cases in which the Board refused to issue or revoked licenses, their decision was subject to review by the courts on writ of certiorari. The Board was empowered to employ legal advice or services when necessary in the enforcement of the act (sec. 8).

Enforcement of the 1909 act effected a great improvement in the practices of private employment agencies. In the words of Chief Inspector McKenna:

The law enacted for the purpose of regulating private employment agencies has brought a wonderful change in the conduct of these concerns. Previous to the act, the office of the Chief Inspector each morning

<sup>1</sup> The chief inspector of private employment agencies was to receive a salary of \$3,600 a year and was required to furnish bond in the sum of \$5,000. The other inspectors were to receive salaries of \$1,500 per year. Salaries and other expenses connected with enforcement of the act were to be paid from funds collected as license fees or fines imposed under the provisions of the act. In case this fund became exhausted during the year, the State Board of Commissioners of Labor was given power to suspend any number or all of the inspectors (excepting, apparently, the chief inspector) until the fund was again replenished (sec. 10).

In 1911, sections 1 and 10 of the 1909 act were amended (*Laws of 1911*, p. 335). All moneys received by the Board of Commissioners of Labor from whatever source were to be paid into the state treasury semi-annually on designated dates. In the former act only the surplus above expenses was to be paid into the state treasury, and this was to be done annually. Salaries and other expenses were no longer dependent upon the license fees and fines collected, and the clause permitting suspension of inspectors in case the fund became exhausted was omitted. In addition to other assistants, the law provided for the appointment of one woman investigator of domestic employment agencies.

would find fifty to one hundred complaints. The inspectors were kept busy serving warrants and the time of the courts was taken up in hearing cases pertaining to labor charges against the agencies;<sup>1</sup>

but under the new law complaints averaged less than two a day, and nearly all of these were settled in the office of the chief inspector without appeal to the courts.<sup>2</sup>

One of the purposes of the Chicago Employment Agents' Association had been to correct abuses practiced by dishonest agents, but the president of that association has stated that this work was done so effectively by the chief inspector of private employment agencies that the association had become inactive.<sup>3</sup>

Since nearly all of the private agencies are in Chicago,<sup>4</sup> and since very few complaints are received against down-state offices, the work of the inspection force is concentrated in and around Chicago. Information concerning abuses practiced by private agencies comes chiefly from persons patronizing them. Under the law, each receipt for fees must contain the name and address of the Department of Labor and the chief inspector of employment agencies. Victims of bad practices on the part of private agencies therefore know to whom complaints should be made. As soon as a complaint is received the inspectors get in touch with the agency in question and secure an adjustment of the difficulty. Many com-

<sup>1</sup> Illinois Department of Labor, *Third Annual Report* (1919-20), p. 50.

<sup>2</sup> In practice it has been a difficult matter to obtain convictions in the courts, since the agencies obtain so many continuances and since it is often impossible to secure the complainant's appearance in court. The complainant may have left the city, secured a job which he could not afford to leave even for a few hours in order to prosecute his case, or otherwise be prevented from appearing. A much more satisfactory method of settlement is to deal directly with the agency, using the inspector's power to revoke licenses as a bludgeon to secure compliance with the law. Very few licenses are revoked.

In cases in which prosecution is necessary, the chief inspector calls upon the attorney for the State Factory Inspection Department, which is housed in the same building, for aid.

<sup>3</sup> See Frank B. Sargent, "Statistics of Unemployment and the Work of Employment Offices," pp. 57-58, published as *Bulletin No. 109* of the U.S. Bureau of Labor.

<sup>4</sup> During the year ending June 30, 1925, 361 licenses were issued for the entire state, of which 339 were issued to Chicago agencies.

plaints are due to misunderstandings and not a few are without foundation. In some cases the patron himself tries to defraud the agency through obtaining a refund of fees. He may be referred to a job by an agency, but instead of going immediately to seek the position, he tells a friend or relative who precedes him and obtains the job. When the applicant himself arrives on the scene, the job has of course already been taken, and he attempts to compel the agency to refund his fee on the ground that no job was open at

TABLE XV

COMPLAINTS AGAINST ILLINOIS PRIVATE EMPLOYMENT  
AGENCIES RECEIVED AND ADJUSTED BY THE IN-  
SPECTOR OF EMPLOYMENT AGENCIES AND THE  
AMOUNTS REFUNDED TO COMPLAINANTS, BY YEARS,  
1918 TO 1926\*

Year	Complaints	Money Refunded
1918.....	997	\$2,977
1919.....	441	2,289
1920.....	461	2,585
1921.....	546	4,911
1922.....	662	5,702
1923.....	760	5,710
1924.....	1,290	8,603
1925.....	1,056	7,031
1926.....	1,146	8,059

\* Compiled from Illinois, *Administrative Report of the Directors of Departments under the Civil Administrative Code*. Reports cover the year ending June 30.

the place to which he had been referred. Oftentimes a man is referred to a job but upon application is told that no such position is open and that no order for workers has been given to the agency. As a matter of fact, however, the agency may have received the order, but the foreman does not think the applicant suitable for the job and therefore, as an easy way out of the situation, tells him that no order had been given and that no jobs are open. Table XV presents data concerning the number of complaints received and adjusted and the amount of money refunded to complainants.

The great bulk of complaints are against general agencies,



common-labor agencies, and clerical agencies. For the year ending June 30, 1924, all but 14 out of 1,290 complaints involved these three types of agencies. These three classes comprised only 192 of the 372 agencies in the state. Reports received from 257 out of some 370 agencies to whom questionnaires were sent in September, 1923, indicated that these three classes placed about 70 per cent of the total number of applicants placed by all private agencies in the state.<sup>1</sup> Practically no complaints involving teachers' or nurses' agencies are received.

In his annual reports Chief Inspector McKenna has suggested a few improvements that might be made in the law. He says that a great deal of the trouble has arisen over the question: When is a person applying for employment liable to pay the fee? This is not precisely defined in the law, but the Chief Inspector has held that the applicant became liable only when he actually assumed the position. Another cause for complaint was the taking of judgment notes from the applicant by agencies previous to acceptance of positions. Mr. McKenna also suggested that private employment agencies be required to furnish the Department of Labor with a monthly statement showing the number of persons applying for positions during the month, the number of persons supplied with positions, the number of persons who were furnished employment within the state, the number sent out of the state, and other similar data.<sup>2</sup>

The inspector of private employment agencies attempted to secure data on the operations of private employment agencies for the year 1918. Table XVI summarizes the results of this investigation.

The work of collecting monthly data from private agencies was again undertaken in 1923—this time by the General Advisory Board, which functions in connection with the free public employment offices. Reports were received from 50 to 60 per cent of the total number licensed, and the results summarized each month in

<sup>1</sup> *Labor Bulletin*, September, 1923, p. 42.

<sup>2</sup> Illinois Department of Labor, *Third Annual Report* (1920), p. 50; *Fourth Annual Report* (1921), p. 93.



the *Labor Bulletin*. There was considerable difficulty in securing accurate figures since many of the agencies dealing with unskilled labor have no formal registration of applicants, and the data supplied under that head were merely rough estimates.<sup>1</sup> Efforts to secure these data were abandoned in 1924.

During the last year or two a rather serious problem has arisen with respect to certain so-called "trade schools" which place misleading advertisements in the newspapers whereby they promise

TABLE XVI  
NUMBER OF PRIVATE EMPLOYMENT AGENCIES IN  
ILLINOIS AND NUMBER OF PERSONS SECURING  
EMPLOYMENT THROUGH THEM IN 1918\*

Type of Agency	Number of Agencies	Placements
Labor . . . . .	58	274,887
Theatrical . . . . .	70	167,457
General . . . . .	31	46,057
Domestic . . . . .	79	37,639
Clerical . . . . .	25	34,043
Hotel and barbers . . . . .	8	15,386
Nurses . . . . .	16	7,977
Automobile . . . . .	2	4,966
Teachers . . . . .	16	3,694
Engineering and technical . . . . .	2	1,376
Total . . . . .	307	593,482

\* From *Labor Bulletin*, September, 1923, p. 42.

jobs to persons while learning a trade. Through the use of these advertisements, young men and women are led to apply for work, which the "school" undertakes to find for them after they pay the required fee.<sup>2</sup> The inspectors of private agencies have endeavored to control them but have experienced considerable difficulty in doing so. In 1927, therefore, Chief Inspector John J. McKenna

<sup>1</sup> Illinois, *Administrative Report of the Directors of Departments under the Civil Administrative Code* (1924), p. 199.

<sup>2</sup> The attorney-general ruled that trade schools of this type come within the definition of private employment agencies as given in the law (*Labor Bulletin*, May, 1926, p. 170).

and Chief Deputy Inspector Martin A. Cannon, of the division of inspection of private employment agencies, with the assistance of George B. Arnold, director of labor, A. M. Shelton, of the Department of Registration and Education, the Legislative Reference Bureau, and the newspaper fraternity,<sup>1</sup> secured the enactment of a law<sup>2</sup> designed to prevent employment agencies from masquerading as trade schools and fleecing persons who hope to learn a trade and obtain employment. This law makes it unlawful to conduct a professional correspondence school or a manual or mechanical trade school without first obtaining a certificate of registration from the Department of Registration and Education.<sup>3</sup> The Department is to ascertain that the instruction given is suitable and adequate, that the fees charged are reasonable, that the school does not promise any right or privilege with respect to admission to professional examinations or to the practice of any profession, in violation of the laws of the state, and that the school does not offer inducements that are designed to deceive a prospective student or make any promises which it does not have the present means or ability to fulfill. The Department is empowered to revoke any such license if the school has violated any of the conditions governing their issuance or has been guilty of fraudulent conduct whereby any of its students have suffered loss.

AN ATTEMPT TO AMEND THE LAW GOVERNING FREE  
EMPLOYMENT OFFICES, 1909

We shall now return to the discussion concerning the Illinois free employment offices. The 1903 act, it will be recalled, provided for one free employment office in each city of not less than 50,000 inhabitants, and three in each city containing a population of one million or over, but provided no system whereby the work of these

<sup>1</sup> *Labor Bulletin*, January, 1928, p. 103. The newspapers also voluntarily agreed to discontinue advertising any trade school that offered employment or made a definite salary offer.

<sup>2</sup> *Laws of 1927*, p. 368.

<sup>3</sup> The practical effect of the law was expected to be the separation of professional and industrial training from the employment agency business. See *Labor Bulletin*, January, 1928, p. 103.

offices might be co-ordinated. They were operating independently of one another and to a certain extent were competitors for the same business. In order to correct this situation, the League for the Protection of Immigrants prepared a bill providing for the establishment of one office in each city of 150,000 inhabitants or more, with power to establish branch offices conducted under the full control and responsibility of the main office. The bill was introduced into the 1909 legislature by Representative Hull, but it was not reported out of committee. "The fact that it proposed to displace existing officers was unfavorable to its progress. The correctness of the principle which it sought to carry out was conceded on all sides." This was the explanation offered by Professor Ernst Freund for its failure to pass.<sup>1</sup> A further reason was the indifference of the public in regard to the whole matter.

#### THE MAYOR'S COMMISSION ON UNEMPLOYMENT

The next step of importance relative to the relief of unemployment was the result of a letter written on December 27, 1911, by Professor Charles Richmond Henderson of the University of Chicago to Mayor Carter H. Harrison of Chicago. In this letter Professor Henderson, who had for many years been deeply interested in problems of social legislation, relief of poverty, and kindred matters, stated that "the utter hopelessness of relieving the sufferings and evils caused by unemployment in all its forms by private or public charity, working alone," had been forced upon his mind; and he personally petitioned the mayor to appoint a commission to study and report upon the whole subject.

A few weeks later, Mayor Harrison, acting upon this suggestion, asked the Chicago City Council for authority to appoint a committee to consist of five members of the City Council and ten citizens of the community whose duties it would be to make a thorough study of unemployment, and to present recommendations that would tend to bring about the greatest possible relief. A resolution granting this authority was adopted by the City Council. It called attention to the great depression existing in many mercan-

<sup>1</sup> League for the Protection of Immigrants, *Annual Report* (1909-10), p. 38.

tile, industrial, and manufacturing establishments whereby thousands of wage-earners had been deprived of the means of livelihood for themselves and their families. This bad situation had been greatly aggravated by the unusually severe weather that had prevailed over a large section of the country, and the resources of all charitable agencies were taxed to the utmost by the needs of the unemployed.

In accordance with the authority granted by this resolution, Mayor Harrison appointed a Commission of twenty-two citizens,<sup>1</sup> including five members of the City Council, with Charles R. Crane, chairman, and Professor Henderson, secretary. At its first meeting, February 24, 1912, this Commission, which was an exceedingly able one, divided its members into seven subcommittees, each of which undertook the study of one of the following phases of the unemployment problem:

1. The nature and extent of unemployment, especially in Chicago.
2. Methods of securing employment, including an inquiry into the workings of the state free employment offices, private agencies, and other employment bureaus.
3. Extent and effects of migration between Europe and America in relation to unemployment.
4. The adjustment, or "dovetailing," of employment.
5. Methods of relief of the destitute unemployed.
6. The laws relating to vagrancy and mendicancy, and methods of betterment required.
7. The relation of vocational training and guidance to unemployment.

We are here especially concerned with the work of the second subcommittee, that on employment bureaus. On the basis of an investigation of the public, private, and philanthropic employment agencies of Chicago and of the other means of securing employment, and with due regard for the recommendations of other subcommittees, the subcommittee on employment bureaus submitted the following resolution which was adopted by the Commission on May 25, 1912:

<sup>1</sup> The resolution had provided for only fifteen members.



1. We recommend the establishment of a Labor Exchange, so organized as to assure (a) adequate funds to make it efficient in the highest possible degree; (b) with a mode of appointment of the salaried directors which will protect it against becoming the spoils of political factions and parties; (c) with a Board or Council of responsible citizens, representing employers, employees, and the general public, to direct the general policy and watch over the efficiency of the administration, this Board or Council having the power to employ and discharge all employees, subject to proper regulation of the Civil Service Commission.

2. We recommend that the Governor and Legislature be requested at the next session of the Legislature to amend the present law relating to free State Employment Bureaus so as to secure a central Labor Exchange, based on the principles first stated.<sup>1</sup>

Professor Ernst Freund gave his services in drafting a bill in accordance with the conclusion of the Commission.<sup>2</sup>

In the autumn and winter of 1912-13, several meetings of the Commission were held, and as a result another bill was drafted, referred to the mayor and by him to the City Council. With their approval the bill was presented to the legislature by Representative Farrell on April 10, 1913. It was, however, not reported out of committee.

This bill was merely amendatory of the existing law relating to free public employment offices. It contained no provisions to safeguard the administration of the offices from the abuses of the spoils system, and no responsible board of managers was given control over the offices. The governor was to be given power to appoint a general superintendent of free employment offices whose duty it would be to superintend and co-ordinate the work of the offices, and provision was made for a local advisory committee in each city, but these local committees were given no important duties or powers.

In 1913, however, the General Assembly did take some action on the problem of unemployment. Senate Joint Resolution No. 28<sup>3</sup> authorized the governor to appoint a Commission on Unemploy-

<sup>1</sup> Chicago, Mayor's Commission on Unemployment, *Report* (1914), p. 8.

<sup>2</sup> *Report* (1914), p. 8. This bill is printed in full on pages 8 and 10 of the report.

<sup>3</sup> *Laws of 1913*, p. 626.

ment consisting of nine members, three representing labor, three representing employers of labor, and three who were not identified with either the employing or the employed classes, representing the public. The Commission was given power to investigate the subject of unemployment in Illinois, together with the causes leading thereto, and the effect of such idleness upon the commonwealth and its citizenship. The Commission was to report to the governor and to the General Assembly at its next regular session (1915), submitting a bill or bills or other means destined to meet the problem of unemployment. No appropriation, however, was made with which to carry on the investigation.

The work of the Mayor's Commission on Unemployment was taken up anew in December, 1913, its immediate task being relief of unemployment, which had again assumed serious proportions. A further study of legislation was postponed until palliatives for the unemployment situation could be put into effect.<sup>1</sup>

#### CHICAGO MUNICIPAL MARKETS COMMISSION

Owing to the large amount of unemployment and the attendant suffering which accompanied the business depression at the beginning of the European war in 1914, the Chicago City Council, acting upon a suggestion made by Alderman Charles E. Merriam, created a commission, called the Chicago Municipal Markets Commission, whose duty it was to prepare as soon as possible a practical plan for relieving this unemployment and destitution.<sup>2</sup> This commission made another investigation of the situation existing at that time and reached practically the same conclusions as those reached by the Mayor's Commission on Unemployment. It pointed out that the unemployment then prevailing was not entirely due to the European war, but was rather a chronic, constant result of the maladjustment of industry and trade—"merely one form of the enormous waste and inefficiency caused by the existing unorganized and planless method of conducting private industry."<sup>3</sup> The Com-

<sup>1</sup> *Report*, p. 12.

<sup>2</sup> Chicago Municipal Markets Commission, *Report* (1914), p. 5.

<sup>3</sup> *Report*, p. 53.

mission stated that there were three agencies or methods which the city might use in combating unemployment at that time, namely, (1) an efficient, well-organized and supported municipal employment bureau; (2) public works and improvements; (3) part or short time work for the unemployed by private and public industry. In addition to this it was stated that private and public charity should receive sufficient support to enable it to care "for the unemployable unemployed and dependent groups" in the community. The Commission's conclusion and recommendation concerning the state free employment offices are significant:

The first requisite toward solving the problem of unemployment is the organization of a municipal employment bureau on an efficient basis. . . . The state free employment offices in Chicago should not be considered, inasmuch as they have been practically worthless in relieving general unemployment since their establishment. . . . They are unable to apply standardized, efficient methods in the conduct of these offices. They are inadequately supported in a financial way, honeycombed with politics and manned by incompetent, untrained, and incapable officials. It is the belief of your Commission that the free state employment offices should be radically reorganized and the employees placed under Civil Service.<sup>1</sup>

The Municipal Markets Commission further urged the mayor to appoint an emergency advisory committee of ten members, consisting of representatives of railway, manufacturing, mercantile, banking, contracting, and organized labor interests, whose duties it would be

to stimulate employment in private trade and industry; encourage part or short-time work among private employers; strive to dovetail seasonal occupations so as to provide for as great an amount of continuity of work as is possible and obtain the co-operation of private employers to increase the number of their employes as far and as soon as this may be practicable.<sup>2</sup>

#### THE INDUSTRIAL COMMISSION

This suggestion was carried out by Mayor Harrison when he appointed an Industrial Commission with Professor Charles R.

<sup>1</sup> *Report*, pp. 54, 56.

<sup>2</sup> *Ibid.*, p. 57.



Henderson as chairman.<sup>1</sup> The Industrial Commission during the winter of 1914-15, in co-operation with the existing free state employment offices and the Department of Public Welfare of Chicago, was able by vigorous canvassing to secure temporary or permanent work for a considerable number of the unemployed. A suggestion was made to the Commission that it follow the traditional method of relief used in Chicago in 1893-94 and during subsequent periods of business stagnation. At first the Commission accepted this task, but when it consulted leading business men of the city in regard to the policy of raising \$500,000 to mitigate the suffering for a few weeks until industry should revive, it found practically universal antagonism to the plan. It was pointed out that the United Charities of Chicago had a thoroughgoing organization for the relief of suffering and that there was no point in building up a second organization to engage in the same work. The Industrial Commission then asked the mayor to appoint one hundred other citizens, representing all of the great interests of the community, to confer with it and give their opinion. The members of this conference were unanimous in their belief that the emergency relief method was not a really serious way of undertaking the task.

After this study and conference, the Commission sent a communication to the mayor and City Council urging them first of all to secure legislation if possible from the Illinois General Assembly which would place the free state employment offices upon a good modern efficient basis as a starting point in meeting the unemployment problem. This Commission, as well as its predecessors, came to the conclusion that unemployment insurance ought to be introduced at the earliest possible moment, so that when the next great crisis came a fund would be available to meet it. It was suggested that this business be placed in the hands of the board, described below, which was to manage the free state employment exchanges.<sup>2</sup>

<sup>1</sup> Professor Henderson's last public service was his work upon this Commission. This work is thought to have hastened his death.

<sup>2</sup> For a description of the work of this Commission see Charles R. Henderson, "How Chicago met the Unemployment Problem," *American Journal of Sociology*, May, 1915.



The Industrial Commission drafted a bill embodying its plan for reorganization of the free state employment offices. This bill, which was very similar to the first bill proposed by the Mayor's Commission on Unemployment, provided for the creation, as part of the civil service of Illinois, of a bureau to be known as the Illinois Free Employment Exchange, which was to be under the general supervision and control of a Board of Managers of five members appointed by the governor for terms of five years. This Board of Managers was to appoint a general superintendent who was to be appointed and hold office in accordance with the civil service law of the state. The office of general superintendent was open to any citizen of the United States who had sufficient managerial ability, experience as an administrator, and practical and scientific knowledge of the problem of unemployment. This superintendent was to have general executive direction of the exchange. The Board of Managers was to establish a central free employment exchange in Chicago, and such number of branches in Chicago and in other cities or localities of the state as they might deem advisable and as the governor might approve. Each branch office was to be in charge of a business manager appointed under the civil service and responsible to and subject to the direction of the general superintendent. Subject to the Board of Managers, the general superintendent was to organize in connection with each branch office an advisory board consisting of not more than five members, of whom one was to represent the general public and the others in equal numbers to represent the employers and organized labor. The Illinois Free Employment Exchange was to investigate the extent and causes of unemployment and remedies therefor, and devise and adopt the most effectual means within its power to provide employment and to prevent distress and involuntary idleness, and for that purpose it was to co-operate with similar bureaus and commissions of other states, with the federal office in the Department of Labor, and with such municipal employment bureaus and exchanges as then existed or might thereafter be created. The bill allowed the separate handling of young persons, ex-convicts and paroled prisoners, unorganized migratory labor, etc. All local and

branch offices were to be in constant communication with the central exchange, and were to co-operate with one another as directed by the central exchange. The offices were to be allowed to advertise in the same manner as the existing free employment offices. Services of the exchange were not to be withheld by reason of any strike or lockout, but full information was to be given to applicants regarding the existence of any such labor disturbance.<sup>1</sup>

The bill was introduced into the legislature by Senator Glackin of Cook County, on March 4, 1915, and was known as Senate Bill No. 24. At a legislative hearing, officials of the Chicago Federation of Labor and of the Illinois State Federation of Labor strenuously objected to some minor features of the bill; but when the advocates and the critics of the bill were requested by the legislative committee to reach an agreement, a conference was held at which these differences were quickly adjusted. A section not included in the bill as introduced was also agreed upon, as had been suggested by Professor Henderson, providing for nationwide co-operation not only to find but to create work for the unemployed.<sup>2</sup>

With the united support of organized labor, the employers, the social workers, and the press, passage of the bill seemed likely. Mr. Glackin urged favorable action by the Senate, and on the morning of May 12, 1915, the bill was passed without a dissenting vote. That same afternoon, however, serious opposition emerged from cover. Senator Dailey, of Peoria, moved that the bill be reconsidered by the Senate, claiming that he and the senators from Springfield, East St. Louis, and Moline had no idea they were voting to abolish the free employment offices in their district, but had voted favorably on the bill owing to Senator Glackin's recommendation that it pass. Mr. Hull, in answer to this argument, attempted to explain the purpose of the bill and showed that while the bill did not specifically state that free employment offices should be established in those cities, the Board of Managers created by the bill had authority to open offices wherever conditions warranted,

<sup>1</sup> The bill is printed in full in the *American Journal of Sociology*, May, 1915, pp. 728-30.

<sup>2</sup> *Survey*, May 15, 1915, pp. 149-50.

and would probably maintain offices in those cities. The ostensible reason for opposition to the bill was not the real reason. Those holding office under the existing law were the real opponents since they would likely be replaced by more competent men under the proposed law. In replying to Mr. Dailey's claim that he had voted for the bill under misapprehension as to its real effect, Mr. Hull indicated the real nature of the opposition when he stated that he felt "under no obligation to look out for the jobs of the friends of his friend from Peoria."<sup>1</sup> It is said also that other opponents of the bill were those who were enemies of the civil service law under which the exchanges would operate,<sup>2</sup> and further that there was opposition to making citizens of other states eligible to the office of general superintendent of the Illinois Free Employment Exchange.<sup>3</sup> Mr. Glackin, in expressing his desire that the bill be reconsidered, stated that he had been under the impression that the bill was agreed upon by all interested parties, and that he did not desire to have members of the Senate vote for a measure upon his recommendation when he himself was under misapprehension as to the unanimity of its support.<sup>4</sup> The upshot of the whole matter was that the bill was brought back to order of second reading for the purpose of amendment.

#### THE LAW OF 1915

Amendments offered by Mr. Glackin were substituted for the whole bill as originally introduced and the bill was then passed.<sup>5</sup> It was really amendatory of the 1903 act, but did, however, embody a few of the good features of the original bill. One free employment office was authorized for each city of not less than 50,000 population, and one office in two or more contiguous cities or towns having an aggregate population of not less than 50,000. In cities containing one million population or over, one central office with not more than three branch offices were to be established (sec. 1). In order to secure co-operation between the Chicago offices, a general superintendent of the central office was to be appointed

<sup>1</sup> *Senate Debates*, 1915, p. 548.

<sup>2</sup> *Survey*, May 15, 1915, p. 150.

<sup>3</sup> *Ibid.*, July 10, 1915, p. 342.

<sup>4</sup> *Senate Debates*, 1915, p. 548.

<sup>5</sup> *Laws of 1915*, p. 414.



(sec. 2). As in the former law, provision was made for advertising in trade journals and newspapers. Full information was to be given to applicants regarding the existence of any strike or lockout in the establishment of any employer seeking workers through the Illinois free employment offices.<sup>1</sup> A General Advisory Board consisting of five members appointed by the governor, of whom two were to represent the employers, two organized labor, and the fifth to be appointed by the governor from a list of acceptable persons submitted by these four, was to be established in connection with the free employment offices. Its members were to serve without salary, but were each to be allowed \$200 a year for necessary expenses.<sup>2</sup> This Advisory Board was not given powers of supervision and control such as were contemplated in the original bill, but was merely to advise and co-operate with the secretary of the Bureau of Labor Statistics and with the general superintendent in Chicago in promoting the efficiency of the free employment offices and in the investigation of the extent and causes of unemployment and the remedies therefor. They were to devise means of providing employment and of preventing distress and involuntary idleness, and for this purpose were to co-operate with similar commissions and bureaus in other states, with the Federal Employment Office in the Department of Labor, and with such municipal employment exchanges as were then in operation or might later be created (sec. 1a). Provision was also made for securing such co-operation of large employers of labor as would most effectually distribute and utilize the available supply of labor. Efforts were to be made to secure an extension of these activities to the rest of the country (sec. 1c).

Governor Dunne made "eminently satisfactory" appointments

<sup>1</sup> Section 5. It will be recalled that the 1899 act was declared unconstitutional because of its strike provision. Under the 1903 law, which had no such provision, the policy was to accept applications for help but to notify applicants for work of the existence of the strike. As a result, workers seldom accepted the positions offered. One superintendent said that he never tried to fill positions where a strike was on. See Sargent, *op. cit.*, p. 51.

<sup>2</sup> A local advisory board of not more than five members was to be established in connection with each office and branch office (sec. 1b).



to the General Advisory Board: the two labor representatives were John H. Walker and Mrs. Raymond Robins; those of the employers were A. H. R. Atwood and Oscar G. Mayer, and the chairman was John E. Williams of Streator. Under the old law the work of the free employment offices had been practically stationary for a number of years. Under the new law the number of applicants for employment and for help and the number of positions filled rapidly increased. This advance in effectiveness was due largely to co-operation among the offices and the work of the advisory boards,<sup>1</sup> but the stimulus to industrial activity given by the European war was also an important factor.<sup>2</sup>

In 1915, Governor Dunne informed the General Assembly that he had been unable to secure suitable persons to serve on the Commission authorized by the 1913 legislature because of the fact that there was no appropriation available with which to carry on the investigation. Inasmuch as the subject of unemployment was one of paramount importance at that time, he urged the General Assembly to re-enact the resolution and provide sufficient funds for purposes of making the investigation.<sup>3</sup> This request was complied with and the funds (\$5,000) appropriated.<sup>4</sup>

The Commission appointed by Governor Dunne consisted of the following persons: John H. Walker, chairman, Mrs. Raymond Robins, and John Fitzpatrick, representing the employees; J. Wallace Dunnan, secretary, Oscar G. Mayer, and A. H. R. Atwood, representing the employers; John E. Williams, R. H. Smith, and Graham Taylor, representing the public.<sup>5</sup> The reports of former

<sup>1</sup> Notwithstanding that the members of the Advisory Board serve without compensation, aside from traveling and other necessary expenses incidental to their duties, they have on all occasions given generously of their time and energies in helping to promote the interests of the service. This statement was made by Mr. Charles J. Boyd in his article on "Various Methods Used by State Employment Services" in *International Association of Public Employment Services, Proceedings of the Tenth Annual Meeting* (1922), p. 35.

<sup>2</sup> Illinois Free Employment Offices, *Eighteenth Annual Report* (1916), pp. 7-8.

<sup>3</sup> *House Journal*, 1915, p. 182.

<sup>4</sup> *Laws of 1915*, pp. 82 and 736.

<sup>5</sup> It will be noticed that five of these members were also members of the General Advisory Board of the Illinois Free Employment Offices.

commissions appointed by the Mayor of Chicago, as well as statistics gathered by the United States government dealing with conditions in Chicago, covered the general inquiry regarding the extent and general aspects of unemployment, so that the Commission was free to deal with the legislative and administrative resources available to the state.<sup>1</sup> Although no legislation can be traced to the work of this Commission, its activity and report were no doubt of some importance in arousing further interest in the problem of unemployment.<sup>2</sup>

#### PLACING OF STATE PRISONERS

In 1917, the General Assembly took cognizance of a service performed by the free employment offices for a number of years subsequent to 1906. In 1906, Governor Deneen instructed William H. Cruden, superintendent of the South Side free employment office of Chicago, to inaugurate a system whereby state prisoners on parole might be assisted through the free employment offices. This work was undertaken by Mr. Cruden and continued through a number of years.<sup>3</sup> The 1917 act<sup>4</sup> made it the duty of the Department of Labor<sup>5</sup> to obtain from the Department of Public Welfare, ninety days before the discharge of any convict from either penitentiary or of the discharge of a prisoner from the reformatory, the name, occupation, and such other information as might be of aid in obtaining employment for such discharged convict or prisoner. The Department of Labor was instructed to seek to provide proper employment, through the several free employment offices, for these persons so that such employment might be available at the time of their discharge, and to assist them to retain suitable employment for such reasonable time as would afford them an opportunity to become self-reliant. In no instance was there to be any misrepresentation as to the records of persons for whom employment

<sup>1</sup> *Survey*, November 27, 1915, pp. 198-99.

<sup>2</sup> Statement of Mr. Graham Taylor.

<sup>3</sup> See Illinois Free Employment Offices, *Eleventh Annual Report* (1909), p. 113.

<sup>4</sup> *Laws of 1917*, p. 518.

<sup>5</sup> The free employment offices became a division of the Department of Labor under the Civil Administrative Code of 1917.

was sought under this section. Similar provisions applied to paroled convicts or prisoners.

The Department of Labor and the free public employment offices have made no efforts to carry out this provision. At the present time nothing whatever is being done in this respect. One responsible employee of the free employment offices was not aware that the law contained such a provision until apprised of the fact by the writer.

#### CO-OPERATION WITH THE UNITED STATES EMPLOYMENT SERVICE

From May, 1918, to March, 1919, the Illinois Free Employment Service was conducted in co-operation with the United States Employment Service. Prior to the signing of the Armistice, the main activities of the combined service were devoted to the problem of supplying labor to war industries. With the close of hostilities, it soon became apparent that federal retrenchments would result in a sharp curtailment of the United States Employment Service at an early date. In view of this impending change, the General Advisory Board turned its attention to the permanent organization of the Illinois Free Employment Service, and especially to the relations that should exist between the federal and state services.<sup>1</sup> When it became apparent that a large number of the offices which had been opened during the war<sup>2</sup> would have to be

<sup>1</sup> As regards the latter point, negotiations were carried on by the General Advisory Board with the Director General of the United States Employment Service, whereby co-operation would be continued and expenses of maintenance divided between the state and federal governments. Congress, however, failed to continue its support of the United States Employment Service, and the plan fell through. For details of the plan see Illinois Department of Labor, *Second Annual Report* (1918-19), pp. 38 ff.

The United States Employment Service at the present time is a farce. A few offices are operated to furnish harvest hands in the West, but a skeleton organization of salaried heads has been maintained. The Illinois free employment offices are given the franking privilege in return for the use of their statistical data by the federal employment "service." This matter is arranged by appointing the superintendents of Illinois offices "special agents" of the federal service.

<sup>2</sup> By October 21, 1918, the United States Employment Service had opened a total of sixty-four offices in Illinois. Commons and Andrews, *Principles of Labor Legislation* (1927), p. 328.



closed because of a lack of financial support, and because of the pressing problem of placing the returning soldier, the General Advisory Board, after consultation with Governor Lowden, recommended the enactment of an emergency measure to continue the operation of the offices in the more important cities which were not already provided with an office by state law.<sup>1</sup>

#### EXTENSION OF ILLINOIS EMPLOYMENT SERVICE

The Advisory Board had seen for some time the need for an extension of the public employment service to cities and towns of less than 50,000 population, as provided in the existing law. In order to make this extension possible, the Board had an amendment to the law prepared which authorized the Department of Labor to establish and maintain a free employment office in each city having a population exceeding 25,000. In each city of 1,000,000 or over, the Department of Labor was authorized to establish and maintain "branch offices," in addition to one central office. In two or more contiguous cities having an aggregate or combined population of not less than 50,000, branch offices might also be established and maintained by the Department of Labor. An appropriation of \$10,000 was made to maintain these offices for the remaining three months of the fiscal year, and the act was to be in force until June 30, 1921. The legislature passed the bill and it went into effect on May 28, 1919.<sup>2</sup> Under this act, offices which had been established at Aurora, Bloomington, Danville, Decatur, and Joliet,

<sup>1</sup> In 1919, the General Assembly passed a law requiring employers to file with the director of labor a statement setting forth (among other things) the usual number of persons of each sex employed, the usual number of hours of employment per day and per week for each sex, the number of employees who entered the naval or military service during the war, and the number of such employees who had been re-employed (*Laws of 1919*, p. 533). The sum of \$10,000 was appropriated to carry out the provisions of the act (*Laws of 1919*, p. 66). The law was repealed in 1923 (*Laws of 1923*, p. 353). Through the use of this information and by co-operation with employers and patriotic organizations, the director of labor was to endeavor to promote the absorption of discharged soldiers into industry.

<sup>2</sup> *Laws of 1919*, p. 65. In Peoria, at least, citizens of the community kept up the employment agencies by contributions until the legislature passed this bill making the appropriation (statement by Senator Barr, *Senate Debates* [1919], p. 710).



in co-operation with the United States Employment Service, were retained and supported by the state of Illinois.<sup>1</sup>

At the same time that this measure was being considered by the General Assembly, a bill to extend the facilities of the Chicago free employment offices was also making progress. This bill authorized the establishment of another branch office in Chicago, making four branches in all, in order to meet the additional strain put upon the employment offices by demobilization of the military forces of the country.<sup>2</sup>

In 1921, when the act of May 28, 1919, expired, the legislature authorized the Department of Labor to establish one free employment office in each city, village, or incorporated town of 25,000 or more population, and one in two or more contiguous cities, villages, or incorporated towns having an aggregate or combined population of not less than 25,000.<sup>3</sup>

#### ADMINISTRATION AND WORK OF THE ILLINOIS FREE EMPLOYMENT OFFICES

When the Civil Administrative Code went into effect in 1917, the free employment offices were separated from supervision by the Bureau of Labor Statistics, which was abolished, and placed in the hands of the state superintendent of free employment offices, appointed by the governor. This official was expected to co-ordinate the work of the various offices. The first man to hold this position was a grocer from Danville, Illinois. He had no knowledge of what constituted a good system of employment exchanges and made no pretense in this regard. Soon after his appointment, he visited all the offices in the state in order to acquaint himself with their work,

<sup>1</sup> Charles J. Boyd, *op. cit.*, p. 35; also F. S. Deibler, chairman of the general advisory board in Illinois Department of Labor, *Second Annual Report* (1918-19), pp. 38, 43-44.

<sup>2</sup> *Laws of 1919*, p. 532.

<sup>3</sup> *Laws of 1921*, p. 443. Under this act, offices were established in Quincy and Cicero. At the present time offices are maintained in Aurora, Bloomington, Chicago, Cicero, Danville, Decatur, East St. Louis, Joliet, Peoria, Quincy, Rockford, Rock Island, and Springfield. Chicago has one main office, including an unskilled-labor branch, and three branch offices.

but after completing his survey, he had considerable difficulty in securing reimbursement for his expenses, and thereafter made no further efforts to perform the duties of his office. His successor has likewise done nothing. As a result there is practically no co-ordination or clearing as between the various offices. The Chicago offices are under the management of a general superintendent who is able to secure some degree of co-operation so far as these offices are concerned.

Employers communicate their needs to the employment offices by use of the telephone and through the mails. The Chicago offices issue a clearance bulletin each week which outlines the training and experience of some especially qualified applicants for whom they have no jobs available and who are difficult to place through the regular channels. The down-state offices sometimes send in information concerning this type of applicants for jobs in order that the weekly bulletin may include them also. This bulletin reaches approximately three thousand employers in Illinois. In addition to the clearance bulletin, special letters giving qualifications of especially trained applicants are sent out to employers in particular industries. Considerable success attends the use of these bulletins and letters. While the free employment offices are empowered to advertise in the newspapers and elsewhere, they cannot do so in practice because the General Assembly appropriates no funds for the purpose. Table XVII shows the operations of the Illinois free employment offices from 1899 to 1928.

Leaving out the twenty-eight months for which comparable data are lacking, 2,385,600 persons out of 3,495,711 who registered for employment, or 68.2 per cent, have been placed. During this period, employers asked the free employment offices to supply 2,931,539 workers, and hired 2,385,600 persons referred to them by these offices. Of total registrations, 70.5 per cent were males and 29.5 per cent females. Of help wanted, 68.3 per cent were males, and 31.7 per cent females. Of those reported placed, 69 per cent were males, and 31 per cent females.

Although they have been in existence almost thirty years, and although they have done good work during part of that period, the free public employment offices have by no means become dom-

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TABLE XVII  
OPERATIONS OF ILLINOIS FREE EMPLOYMENT OFFICES, AUGUST 2, 1899, TO JUNE 30, 1928\*

PERIOD	REGISTRATIONS			HELP WANTED			REFERRED			REPORTED PLACED		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Aug. 2, 1899, to Oct. 2, 1899	9,825	3,272	13,097	6,103	4,267	10,370	.....	.....	.....	3,752	2,745	6,497
Year ending Oct. 1, 1900	21,142	16,143	37,285	16,749	18,793	35,542	.....	.....	.....	15,322	15,896	31,218
Year ending Oct. 1, 1901	16,324	11,281	27,605	15,322	12,802	28,124	.....	.....	.....	13,625	10,371	23,996
Year ending Oct. 1, 1902	30,157	14,743	44,900	30,242	17,255	47,497	.....	.....	.....	26,661	13,520	40,181
Year ending Oct. 1, 1903	29,414	14,096	43,510	29,946	17,613	47,559	.....	.....	.....	26,335	12,892	39,227
Year ending Oct. 1, 1904	32,763	13,730	46,493	31,625	15,085	46,710	.....	.....	.....	19,405	12,319	31,724
Year ending Oct. 1, 1905	32,073	13,250	45,323	29,351	15,236	44,577	.....	.....	.....	27,652	11,946	39,598
Year ending Oct. 1, 1906	42,023	15,466	57,489	42,077	18,831	60,908	.....	.....	.....	39,430	14,197	53,617
Year ending Oct. 1, 1907	45,200	14,161	59,361	47,278	18,594	65,872	.....	.....	.....	42,305	13,112	55,417
Year ending Sept. 30, 1908	40,691	14,682	55,373	35,165	15,288	50,453	.....	.....	.....	22,918	11,818	34,736
Year ending Sept. 30, 1909	38,567	14,965	53,532	32,847	15,061	47,908	.....	.....	.....	28,982	12,567	41,549
Year ending Sept. 30, 1910	49,208	19,422	68,630	52,963	24,657	77,620	.....	.....	.....	45,240	17,324	62,564
Year ending Sept. 30, 1911	51,437	24,670	76,107	52,963	25,061	78,024	.....	.....	.....	40,571	19,256	59,827
Year ending Sept. 30, 1912	51,009	22,347	73,356	55,705	25,666	81,371	.....	.....	.....	49,196	20,687	69,883
Year ending Sept. 30, 1913	66,296	35,989	102,285	50,258	26,742	77,000	.....	.....	.....	45,961	21,252	67,213
Year ending Sept. 30, 1914	43,461	26,769	70,230	37,763	23,903	61,666	.....	.....	.....	35,487	21,050	56,537
Year ending Sept. 30, 1915	51,440	30,046	81,486	24,007	19,019	43,026	.....	.....	.....	23,025	15,055	38,140
Year ending Sept. 30, 1916	123,802	30,014	153,816	99,361	32,205	131,566	.....	.....	.....	87,415	23,454	110,879
Oct. 1, 1916, to June 30, 1917	144,007	26,838	170,845	247,422	34,305	281,727	201,863	37,931	239,794	172,639	32,489	205,178
July 1, 1917, to June 30, 1918	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
July 1, 1918, to June 30, 1919	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
July 1, 1919, to June 30, 1920	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Feb. 1, 1920, to June 30, 1920	97,216	24,095	121,311	117,891	32,156	150,047	91,445	24,478	115,923	77,900	20,271	98,171
July 1, 1920, to June 30, 1921	210,229	63,264	273,493	121,660	59,440	181,100	115,142	51,865	167,007	99,348	42,279	141,627
July 1, 1921, to June 30, 1922	195,451	69,799	265,250	108,658	56,908	165,572	99,397	52,765	152,162	81,083	42,552	123,635
July 1, 1922, to June 30, 1923	209,015	71,208	280,223	194,154	75,990	270,148	172,117	65,708	237,825	143,957	55,600	199,557
July 1, 1923, to June 30, 1924	174,508	80,178	254,686	131,768	68,633	200,401	119,517	66,316	185,833	98,701	37,037	135,738
July 1, 1924, to June 30, 1925	153,830	83,158	236,988	93,758	61,207	154,965	92,307	61,324	153,631	81,115	52,534	133,649
July 1, 1925, to June 30, 1926	185,407	86,092	271,559	132,294	64,860	197,154	131,268	65,278	196,546	115,104	55,690	170,794
July 1, 1926, to June 30, 1927	189,813	96,674	286,487	120,007	67,733	187,740	129,146	68,256	197,402	107,114	57,957	165,071
July 1, 1927, to June 30, 1928	152,411	90,460	242,871	85,020	60,815	145,835	87,793	61,624	149,417	77,088	53,029	130,117
Total	2,462,799	1,032,912	3,495,711	2,002,267	929,272	2,931,539	1,235,995	555,545	1,791,540	1,646,891	738,709	2,385,600

\* Data for period August 2, 1899, to June 30, 1921, are from the *Employment Bulletin*, February, 1922, p. 4. Data since July 1, 1921, are from the *Reports of Directors* under the Civil Administrative Code and the *Labor Bulletin*.

† No comparable figures available.

‡ Period of active co-operation by the United States Employment Service. No comparable figures available.



inant in the work of bringing the worker and the job together, as was the fond hope and expectation of many persons when they were first established. Private agencies make probably three or four times as many placements as the free public agencies and are quite dominant in some branches of the work.<sup>1</sup> Private agencies were first in the field and some of them succeeded in building up a substantial clientèle. The employer, in particular, is satisfied, and sees no reason for changing to the public agencies. The expense is borne by the worker anyway. Some private agencies specialize in certain branches of the work, and persons in those occupations naturally turn to them. Good examples of this type are theatrical agencies, teachers' agencies, and nurses' agencies. Specialized private agencies are equipped to give the individual treatment required for certain types of employment. Public offices at present are not able to do this with equal success.

The free employment offices serve unskilled labor for the most part. Common labor, casual workers, and domestic and personal servants, including hotel and restaurant employees, constitute more than 70 per cent of the placements made. Although the free public offices are supposed to serve every class, comparatively few applicants may be classified as highly skilled or especially trained. Part of the explanation lies in the fact that people of these types are fewer in number than the unskilled types and in addition have other means of obtaining employment, such as through the trade union; but a considerable factor is the dislike on the part of skilled or clerical help to apply at an office frequented chiefly by lower grade workers.<sup>2</sup> Among the unorganized workers, teachers and

<sup>1</sup> The number of placements made by private agencies which made reports was 86,213 for the months of April, May, and June, 1924. In the same period the state offices made 36,498 placements.

<sup>2</sup> The Chicago offices attempt to meet this problem by providing branches to serve certain industrial districts, such as the stockyards. The main office has a special unskilled-labor branch located on the near west side in the heart of the common-labor market. The main office itself occupies three whole floors of a building in the loop district. One floor serves women, another serves men and boys, and the third is occupied by administrative offices. Certain areas are partitioned off and deal with applicants for particular kinds of jobs.



nurses patronize specialized private agencies. The railroads do not call upon the free public employment offices to any appreciable degree, but have for many years patronized private agencies which specialize in furnishing the type of labor they need. These agencies often have commissary departments and not only furnish unskilled workers for railroad construction work but also provide meals for them. The public employment offices do not perform services of this kind. Table XVIII gives the percentage of placements in the main industrial classifications for the years 1923 to 1926.

TABLE XVIII

PLACEMENTS BY THE ILLINOIS FREE EMPLOYMENT OFFICES, 1923 TO 1926  
PERCENTAGES PLACED IN MAIN INDUSTRIAL CLASSIFICATIONS  
(FROM ANNUAL REPORTS OF DIRECTORS OF DEPARTMENTS)

Industrial Classification	1923	1924	1925	1926
Common labor . . . . .	43.7	32.6	29.8	35.3
Casual workers . . . . .	21.7	28.8	28.6	23.1
Domestic and personal service; hotel and restaurant . . . . .	10.4	11.8	14.0	14.3
Agriculture . . . . .	3.8	5.2	6.2	4.4
Metal and machinery . . . . .	4.7	3.8	4.3	4.6
All others . . . . .	15.7	17.8	17.1	18.3
Total . . . . .	100.0	100.0	100.0	100.0

Under the 1915 act the Illinois free employment offices have functioned fairly satisfactorily, especially the Chicago offices; but the act itself should be rewritten in order to iron out certain ambiguities and to make it consistent with the Civil Administrative Code. The compensation of the employees should be raised so as to enable the state to secure and retain trained employees in the service. Employees of the free employment offices should be selected and hold office in accordance with civil service regulations. In theory this is in effect, but in practice almost nothing of the kind exists. Nearly all the superintendents and other employees hold office under temporary appointments. In cases of temporary appointments, civil service examinations are supposed to be given later, and the places filled by those who pass; but as a matter of fact they are not given, and it is thus very easy for politics to rule the situation.

Persons inactive in politics and those of improper political hue can seldom obtain positions in the service.<sup>1</sup> This of course does not mean that all the appointees are palpably inefficient.

#### THE BUREAU OF INDUSTRIAL ACCIDENT AND LABOR RESEARCH

An important defect which has to a large degree been overcome in the last few years was a lack of means for compiling and publishing information concerning labor conditions in the state. The first statistics of this nature were collected by Mr. R. D. Cahn, who joined the staff of the Illinois Department of Labor in 1921. These data were published monthly in the *Employment Bulletin*<sup>2</sup> beginning in September, 1921, and dealt solely with the problems of employment and unemployment—subjects which fell specifically within the province of the General Advisory Board. Realizing that data of this nature should be supplemented by data on other industrial matters, the Board in 1923 urged the General Assembly to create a properly equipped statistical division within the Department of Labor. Owing to certain unfavorable manipulations with regard to the bill introduced into the 1923 legislature, Mr. Cahn succeeded in securing its defeat, hoping to secure favorable action in 1925. As the result of vigorous efforts by Mr. Cahn, the 1925 General Assembly made an appropriation to the General Advisory Board for certain employees, namely, one chief of division, one editor of reports, three statisticians, one investigator of labor con-

<sup>1</sup> During Governor Lowden's administration, after the Civil Administrative Code went into effect, some examinations were held and appointments made in accordance with the provisions of the law. One man who was on temporary appointment tried to persuade those in authority to give him an examination, thinking that if he were thereby given a permanent appointment his tenure would be more secure. The examining board, however, was incapable of conducting an examination in the subject involved. This man was on a temporary appointment from 1921 until he resigned in 1927 to take a better position elsewhere. Some employees are able to hold their jobs by "knowing when to change horses"; that is to say, they foresee which political clique is going to control the political situation, and cast their lot with the apparent winner.

<sup>2</sup> After some years of "urgent insistence" by the General Advisory Board, the director of labor authorized the publication of the *Employment Bulletin*. See Illinois, *Sixth Administrative Report of the Directors of Departments* (1922-23), p. 178.

ditions, one stenographer and clerk, and one junior statistician. This, of course, was an improvement over the previous situation, but did not result in a centralized statistical bureau. The only course left open was to consolidate the statistical work of the Industrial Commission with that of the General Advisory Board. This arrangement was carried out and the Bureau of Industrial Accident and Labor Research was formed in July, 1925.<sup>1</sup> This arrangement, however, was not entirely satisfactory since persons receiving their pay checks from the Industrial Commission would not do good work for the man who was in charge of the Bureau under the General Advisory Board. They owed their allegiance to the source from which they drew their pay. The General Advisory Board has tried to secure and maintain an efficient working force and has largely succeeded, but those working in the same office who are paid by the Industrial Commission have usually assumed the ordinary political appointee's attitude toward work.<sup>2</sup>

The statistical work started in 1921 by Mr. Cahn has been continued and extended up to the present time. The *Labor Bulletin*, which is the organ of all divisions of the Department of Labor, superseded the *Employment Bulletin* in July, 1923. It is published monthly, and contains charts and tables showing the trend of employment and wages in Illinois industries, the work of the free employment offices, industrial accident statistics, building operations, etc. Articles and editorials give information concerning the industrial situation in Illinois, the work being done by various divisions of the Department of Labor, and other things of interest. Each issue contains reviews, written by members of the staff, of recent books on labor.

One of the most interesting and most valuable projects undertaken by the General Advisory Board is the collection of statistics of employment and earnings in the manufacturing industries of Illinois. In August, 1921, it began to collect data on the number of

<sup>1</sup> It is now called the Bureau of Labor Statistics.

<sup>2</sup> During the past year under the leadership of William M. Scanlon, conditions have considerably improved in the office of the Industrial Commission. See chapter xv, p. 482.



persons employed; but in the following year, a co-operative agreement was entered into with the United States Bureau of Labor Statistics, whereby the General Advisory Board began the collection of data similar to those collected by the New York and the Wisconsin departments of labor under a similar arrangement. Beginning with July, 1922, therefore, data on employment and earnings were collected which were comparable with those collected in New York and Wisconsin. In publishing average weekly earnings in totals by industries, the practice of these states was followed; but the General Advisory Board felt that earnings by sex should be differentiated in order that one may see more clearly what is actually happening as employment and earnings of men and women shift.<sup>1</sup> Employers are therefore requested to furnish data in this form. There is no legal compulsion to reply, but there has been "adequate and even enthusiastic response" in many cases. In May, 1928, reports were received from 1,180 firms employing 252,752 persons. Reports from a larger number of employers have been received. From July, 1924, to June, 1925, reports were received from 1,501 to 1,520 employers employing from 393,698 to 406,578 persons. Reports for identical employers are compared for two successive months and the results expressed as a percentage of increase or decrease in employment and wages.

Perhaps the most needed reform in the administration of the free employment offices and the Bureau of Labor Statistics is the absolute riddance of political scheming and the placement of their management in a board of managers with full power to act. The General Advisory Board can do nothing except make recommendations as to the form the statistics shall take.<sup>2</sup> The employees should be under civil service in fact as well as in theory. Under the present situation, the time and energy of the head of the Bureau are taken up largely in efforts to avoid political control and to maintain a reasonably efficient working force.

<sup>1</sup> *Labor Bulletin*, October, 1923, p. 54.

<sup>2</sup> Until 1927, it could refuse to issue pay checks to persons of whom it did not approve, and thus was able to exercise a sort of negative control over appointments. The 1927 General Assembly appropriated these funds to the Industrial Commission. Mr. Scanlon, chairman of the Industrial Commission, has not, however, departed from the policies of the General Advisory Board.

## CHAPTER XV

### WORKMEN'S COMPENSATION

At the beginning of the present century most of the leading European countries had laws providing compensation for workmen injured in industrial accidents, but little interest in this important question developed in the United States until somewhat later. In this country, workmen injured in the course of their employment had no remedy against their employers except that provided by damage suits at common law based exclusively upon the idea of tort or wrong. For a number of years, American labor organizations had attempted to secure the enactment of laws limiting or abolishing the use of certain "defenses" permitted the employer in these cases, and had been successful in obtaining such laws in a number of states.<sup>1</sup> It was tacitly assumed that this was the best course to pursue in order to solve the problem, and practically no one knew of the success European countries had attained through a system based not upon the idea of fault but upon the idea that industrial accidents constitute one of the costs of production which should be automatically paid without recourse to litigation.

The inadequacy and unfairness of the American system, or rather lack of system, of compensating injured workmen finally dawned upon the American people—business and professional men as well as other classes. Maryland passed a compensation law of very limited application in 1902, but it was declared unconstitutional in 1904 after being in force less than two years. Following this abortive attempt, desultory action was taken in various parts of the country. Massachusetts, Illinois, and Connecticut appointed

<sup>1</sup> At least as early as 1883, organized labor in Illinois was demanding an employers' liability act. See testimony of P. H. McLogan before the United States Senate Committee on Relations between Labor and Capital, August 24, 1883, in *Report, I* (1885), 584. See also Eugene Staley, *History of the Illinois State Federation of Labor*.

commissions to investigate conditions and to make recommendations, but their recommendations were not enacted into law.

After the enactment in 1908 of the federal law giving protection to certain employees of the federal government, opinion seemed to crystallize throughout the country. Investigating commissions were appointed and a veritable flood of laws was passed. In 1909, Minnesota, New York, and Wisconsin appointed legislative commissions. In 1910, commissions were appointed in Illinois, Massachusetts, New Jersey, Ohio, and by the United States government. Still more were appointed in 1911 and in succeeding years. This time the recommendations of the commissions were not futile. In 1909, Massachusetts and Montana passed compensation laws; in 1910, Maryland and New York; and in 1911, ten states, Illinois among them, passed such laws. At present only four states are without compensation legislation of some degree of adequacy.

#### EMPLOYERS' LIABILITY AT COMMON LAW

The courts of Illinois early adopted the general principles of the English common law respecting the liability of employers toward injured workmen, the legislature having given its sanction to this practice in a law enacted in 1819, which provided that the common law of England, so far as the same is applicable and of a general nature, and all statutes or Acts of the British parliament made in aid thereof, and to supply the defects of the common law, . . . and which are of a general nature and not local to that kingdom, shall be the rule of decision, and shall be considered of full force until repealed by legislative authority.<sup>1</sup>

At common law it was the duty of the employer, first, to exercise due care in selecting competent and prudent coemployees;<sup>2</sup> second, to provide a reasonably safe place for the servant to work;<sup>3</sup> third, to provide reasonably safe tools or appliances for the servant

<sup>1</sup> *Laws of 1819*, p. 3.

<sup>2</sup> *Kranz v. White*, 8 Ill. App. 583 (1881); *Consolidated Coal Co. v. Haenni*, 146 Ill. 614 (1893). The employer does not, however, insure their skill or prudence. *Richardson v. Cooper*, 88 Ill. 270 (1878).

<sup>3</sup> *Pioneer Fireproof Construction Co. v. Howell*, 189 Ill. 123 (1901).



to use in the performance of his work;<sup>1</sup> fourth, to provide suitable and reasonable rules for carrying on the work;<sup>2</sup> and fifth, to warn and instruct youthful and inexperienced servants as to the dangers of the employment.<sup>3</sup>

The employee, on the other hand, by accepting employment, was held by implication to agree that he would assume the ordinary risks incident to the service in which he was to be engaged,<sup>4</sup> among which was the negligence of other servants employed by the master and directly co-operating in the same service.<sup>5</sup> For injuries arising out of risks not so impliedly assumed, the employee was entitled to compensation from the employer provided he could prove that the injury had resulted not from his own negligence but from the failure of the employer to perform any of the above-mentioned duties. In the course of time the defense put forward by the employer in these damage suit cases was embodied in three more or less distinct formal doctrines, those of (a) fellow service, (b) assumption of risk, and (c) contributory negligence.

a) The fellow-servant rule was first announced in England in 1837 in the case of *Priestly v. Fowler* (3 M.& W.1). In accepting employment, the servant was held to have assumed the incidental risks due to the negligence of fellow employees. This doctrine was first recognized in Illinois in 1854 (*Honner v. Illinois Central Railroad*, 15 Ill. 550). The meaning of the term "fellow servant" was of great importance. In the earlier decisions a fellow servant was one engaged in the same general business, a definition very wide in scope; but about 1880, the Illinois courts began to restrict the ap-

<sup>1</sup> *Kranz v. White*, *supra*.

<sup>2</sup> *Chicago Anderson Pressed Brick Co. v. Sobkowiak*, 45 Ill. App. 317 (1892); affirmed in 148 Ill. 573 (1894).

<sup>3</sup> *Marsden Co. v. Johnson*, 89 Ill. App. 100 (1899); *Mithen v. Jeffery*, 259 Ill. 372 (1913). He is not required to warn and instruct a servant concerning dangers which are patent to persons of ordinary intelligence (*Dahlin v. Sherwin*, 132 Ill. App. 566 [1907]), or which are equally obvious to both employer and employee (*Mohr & Sons v. Martewicz*, 139 Ill. App. 173 [1908], affirmed by 236 Ill. 143 [1908]).

<sup>4</sup> *St. Louis National Stock Yards v. Morris*, 116 Ill. App. 107 (1904).

<sup>5</sup> *Fitzgerald v. Honkomp*, 44 Ill. App. 365 (1892); *Wells v. O'Hare*, 209 Ill. 627 (1904).

plication of the rule and came to include under this term only those persons who were directly co-operating with one another and who were in such habitual association as to exercise a mutual influence upon one another promotive of proper caution.<sup>1</sup> Foremen or vice-principals were not considered to be fellow servants with employees not thus representing the master.<sup>2</sup>

b) Under the assumption of risk rule, it was held that the servant assumed all the risks still involved in the employment after the master had done everything he was bound to do for the purpose of securing the safety of his servants.<sup>3</sup>

c) According to the doctrine of contributory negligence, the injured employee who sued his employer for damages for an injury occasioned by the fault of the employer had to establish his own freedom from negligence in order to win his case.<sup>4</sup>

#### MODIFICATION OF THE EMPLOYER'S COMMON-LAW DEFENSES

It should be noted, however, that in some instances these defenses were modified or abolished by various acts of the General Assembly. The first instance is the Tumbling-Rod Law of 1869, which gave persons injured by unprotected tumbling-rods a claim for damages. The Illinois Appellate Court, however, held that

<sup>1</sup> *Wells v. O'Hare*, 209 Ill. 627 (1904); *Schneider v. Carlin*, 120 Ill. App. 538 (1905).

<sup>2</sup> *Illinois Steel Co. v. Olste*, 214 Ill. 181 (1905); *Schillinger v. Smith*, 225 Ill. 74 (1907); *Baier v. Selke*, 211 Ill. 512 (1904).

<sup>3</sup> Under this doctrine the servant "assumes all the ordinary risks incident to the business, all the extraordinary risks of which and of the danger of which he has knowledge, and all other obvious risks." *Streeter v. Western Scraper Co.*, 254 Ill. 244 (253) (1912).

<sup>4</sup> During the period 1858 to 1885, the courts of Illinois followed the so-called doctrine of comparative negligence. In following this doctrine the courts recognized that negligence and care are always questions of degree, and ruled that "in proportion to the negligence of the defendant, should be measured the degree of care required of the plaintiff—that is to say, the more gross the negligence manifested by the defendant, the less degree of care will be required of the plaintiff to enable him to recover." *Galena & C.U.R. Co. v. Jacobs*, 20 Ill. 478 (1858). The rule was unsatisfactory in practical application and was abandoned in 1885 in the case of *Calumet Iron and Steel Co. v. Martin*, 115 Ill. 358 (1885).

contributory negligence would bar recovery by the injured party.<sup>1</sup> The mining code, beginning with 1872, provided that workmen injured because of an operator's failure to comply with the provisions of the mining law, should have a right of action for any direct damages sustained thereby. In case of loss of life, the widow or other dependents had the same right of action. An amendment passed in 1887 limited the amount recoverable to \$5,000. In 1907, a law indorsed by the Legislative Committee of District 12, United Mine Workers of America,<sup>2</sup> increased this sum to \$10,000, and added the proviso that every such action for damages should be commenced within one year after the death occurred. Similar provisions were included in the 1915 act concerning emery wheels, the Building Construction Act of 1907, the law of 1905 protecting railway employees, and the Occupational Disease Law of 1911.<sup>3</sup> The law protecting railway employees was the only one stating specifically that the employer might not appeal to the doctrine of assumption of risk or contributory negligence in suits under the law, but in numerous cases the courts have ruled out these defenses as well as the fellow-servant doctrine if the employer was shown to have wilfully violated or failed to comply with the law.<sup>4</sup>

<sup>1</sup> *W. St. L. & P. Ry. Co. v. Thompson*, 10 Ill. App. 271 (1881).

<sup>2</sup> United Mine Workers of America, District 12, *Proceedings of the Eighteenth Annual Convention* (1907), p. 37.

<sup>3</sup> See chapter on "Safety and Health," pp. 244, 246, 251; and chapter on "Occupational Diseases," p. 282.

<sup>4</sup> See *Spring Valley Coal Co. v. Patting*, 210 Ill. 342 (353) (1904); *Carterville Coal Co. v. Abbott*, 181 Ill. 495 (502) (1899); *Niantic Coal Mining Co. v. Leonard*, 126 Ill. 216 (217) (1888); *B. & O. S. W. Ry. Co. v. Alsop*, 176 Ill. 471 (1898); *Helm-bacher v. Garrett*, 119 Ill. App. 166 (1905); *Stafford v. Republic Iron and Steel Co.*, 238 Ill. 371 (1909); *Streeter v. Western Scraper Co.*, 254 Ill. 244 (1912).

We should mention in this connection a law passed in 1853, which gave the widow or next of kin a right of action against any person or corporation whose wrongful act, neglect, or default caused the death of another person, even though the death was caused under such circumstances as to constitute a felony under the law. The amount recoverable was limited to \$5,000 (*Laws of 1853*, p. 97). Organized labor in the eighties and nineties demanded the abolition of this \$5,000 limit (E. Staley, *History of the Illinois State Federation of Labor*), and in 1903 the amount recoverable was increased to \$10,000 (*Laws of 1903*, p. 217).



Recovery of damages under all of these laws, however, was dependent upon the establishment in court of wilful violation of the act or wilful failure to comply with its provisions on the part of the offending party. This fact precluded recovery in a large percentage of cases, since not all accidents are due to fault of the employer, nor can fault always be established in court.<sup>1</sup>

With the exception of the cases noted, to have a valid claim for damages, the employee must have omitted no duty, committed no act which could be interpreted as contributory negligence, must not have been injured through the act of a fellow servant, and must not have assumed the risk.<sup>2</sup> Through the use of these defenses, the employer was able to nullify the injured employee's claim for damages in the great majority of cases. Not only was an injured employee hampered by these common-law defenses in prosecuting his claim for damages, but an employee with a meritorious claim was discouraged from filing a suit because of the expense and delays incident to court litigation, the uncertainty of winning his suit, and the difficulty in collecting the claim in many instances even though a judgment was secured.

So long as the workingman was forced to rely upon the damage suit at common law for compensation for injuries, it has been estimated for the United States as a whole, of which Illinois may be assumed to be fairly typical, that in not more than 12 per cent of such cases was compensation of any kind received by the employee, and in these cases the amount paid did not on the average exceed one-fifth of what might be regarded as adequate compensation.<sup>3</sup> With the growing complexity of industrial life, the inadequacy of this method of compensating injured workmen became more and more apparent.

#### INDUSTRIAL INSURANCE COMMISSION OF 1906

Following the defeat of an employer's liability bill sponsored by organized labor in the 1905 General Assembly, friends of the

<sup>1</sup> It is said that the burden imposed upon the employer by these laws was not sufficient to compel his compliance with their provisions (W. F. Dodd, *Report on the Administration of Labor and Mining Legislation in Illinois* [1914], p. 28).

<sup>2</sup> See *Streeter v. Western Scraper Co.*, *supra*.

<sup>3</sup> James H. Boyd, *Workmen's Compensation*, I (1913), 54.

compensation movement secured the adoption of a joint resolution<sup>1</sup> creating an Industrial Insurance Commission to consist of five representative men appointed by the governor whose duty it was to formulate a plan for industrial insurance and workingmen's old-age pensions. The preamble of the act creating the Commission calls attention to the need for legislative action to modify the "deplorable state of affairs" then existing, in the following words:

Even in the most favored countries the margin between work and want is an exceedingly narrow one; besides there can be no apprehension more keen or pitiless than the constant clinging dread shared equally by all wealth producers that misfortune in the form of sickness, the liability to become incapacitated through accident or by time's inevitable advance accompanied by waning strength, there will be lacking the means necessary for ordinary maintenance.

In spite of the fact that the Commission was charged with ambitious and inclusive duties, the legislature made no appropriation for research and investigation; consequently, soon after its appointment in 1906,<sup>2</sup> the Commission decided to restrict its study and recommendation to accident insurance, saying:

The most natural point of approach to this whole range of much needed protection is accident insurance. . . . By a natural development accident insurance will lead on to sickness insurance and to old-age pensions; for it will soon be discovered that accidents are not the only important cause of distress in the families of workingmen; and the benefits which will be derived from accident insurance will encourage the people to demand an extension of the principle to other fields.<sup>3</sup>

Since the Commission did not have funds with which to engage in independent research, it was compelled to base its recommendations upon existing accident reports and European experience. The recommendations of the commission were embodied in two

<sup>1</sup> Charles R. Henderson, in American Economic Association, *Proceedings* (1908), pp. 183-98.

<sup>2</sup> The members of the Commission were: Charles H. Hulburd, a business manager, president; Professor Charles R. Henderson, secretary; Professor David Kinley; Adolph E. Adeloff, a representative of the trade unions, and Harrison F. Jones, a lawyer and administrator of a railroad insurance scheme.

<sup>3</sup> Industrial Insurance Commission, *Report* (1906), p. 10.

proposed bills. One of these bills, drafted by Mr. C. H. Hamill, an attorney, was modeled on the German plan of compulsory insurance, and while it was frankly admitted that this type of measure would be declared unconstitutional on several grounds, it was submitted as a "provisional goal for effort, and as a means of directing public attention upon a concrete and definite object."<sup>1</sup> The other bill, which was drafted by Professor Ernst Freund, was recommended for enactment. Concerning the latter measure, the Commission said:

Considerations of timeliness have induced us, though with reluctance, to offer a law which will not fully meet the requirements of the future, but we think it marks a definite stage of progress and will help to hasten the day of universal and complete insurance. . . . The bill offered for enactment into law is by no means what we recommend as final, but it is all we have reasonable hope of seeing adopted by the Legislature and approved by the courts; and even thus it contains the principle which may gradually be unfolded and extended in ways which are not at first thought of as possible.<sup>2</sup>

The recommended bill afforded a method of insuring workmen against "the risk of personal injury by accident arising out of and in the course of the employment." Such insurance might be effected in any casualty insurance company doing business under legal sanction in Illinois, but employers of not less than fifteen hundred employees might establish insurance funds of their own under the supervision of the state superintendent of insurance. Joint contribution on the part of both the employer and the employee was provided for, the employer to contribute not less than 50 per cent of the insurance premiums. If an injury resulted in death and there were surviving dependents, a sum equal to the wages of the deceased for the last three years preceding the accident, but not less than one thousand dollars, was to be paid. In case of total disability, weekly benefits of not less than 50 per cent of the average wage of the preceding year were to be paid during the period of such disability. In case of partial disability weekly payments were to be made dur-

<sup>1</sup> *Ibid.*, p. 25.

<sup>2</sup> *Ibid.*, pp. 9, 25.



ing the period of such disability in such amounts as were fixed by the insurance contract between the employer and the employee. No machinery for the administration of the act was provided except that the employer was required to file with the superintendent of insurance a copy of the form of contract and policy which he intended to use in insuring his employees, and to make quarterly reports to the superintendent of insurance of all payments and settlements made.

The above bill in its original form was not submitted to the Illinois legislature, but a bill similar to and based on this draft was introduced by Representative George F. Smith under the title, "An Act Requiring Compensation for Causing Death by Wrongful Acts, Neglect, or Default" (H.B. No. 345).

Few members of the legislature had given any study to the matter. The Senate Committee on Corporations, which was charged with the bill, gave the Commission a patient and intelligent hearing. The governor did all that was in his power and commended the report of the Commission and urged favorable action by the legislature. The lobby of manufacturers and railroads was there to defeat another bill for protective legislation and soon learned that the Commission's bill was for the present harmless; so that apparently they gave it no attention. Manufacturers who were consulted regarded it with favor.

The trade-union representatives openly opposed the bill in the committee hearings and elsewhere; they were sent there with a mandate to kill the proposed law and to urge action for protective legislation and a liability law. They contended that the German system was inadequate even in Germany. If it were introduced into this country it would merely be an annoyance, a pauper dole, instead of compensation, because of higher standards of living here. They realized that it would result in some benefit but believed that its adoption would prevent the early introduction of an adequate system.<sup>1</sup>

Professor Henderson stated that it was manifest that unless their attitude was changed, legislation of the nature proposed by

<sup>1</sup> Statement of Mr. Edwin R. Wright.

the Commission could not be secured, since law makers would not urge measures against their protest. From his contact with trade-union leaders, Professor Henderson concluded that their antagonism to this and other insurance schemes was due to the following causes:

1. Trade unionists had not had time to consider the methods of insurance and they had from some source acquired some distorted notions of what insurance meant.

2. The workingmen had been trained to look to the liability law for their legal rights in cases of injury. The law itself and the procedure of the courts had taught them almost instinctively to take a combative attitude.

3. They had been taught by the common law and the procedure under it to look to, and fight for, large speculative awards from juries and courts. They had not fully comprehended the fact that only a small part of the accidents in industry were due to negligence of the employer, and that it was seldom that a workman could recover large damages.

4. They felt that the Commission's measure fell short of the best European laws. The premiums there were all paid by the employers,<sup>1</sup> but the Commission, because it despaired of success if it asked more, required them to pay only half of the premiums.

5. It was possible that the trade unions feared that the bill would weaken attachment to the unions, but Professor Henderson did not personally come in contact with this argument.

6. Perhaps the most decisive factor in determining the trade unions to oppose the Commission's bill was their concentrated effort to secure protective laws. The Commission attempted to convince the union leaders that accident-insurance laws, by requiring benefits without regard to proof of negligence in all cases of injury, would bring pressure to bear upon employers to use devices for reducing the number and severity of accidents; but the union-

<sup>1</sup> This statement is inaccurate. In Germany, for instance, compensation for the first thirteen weeks of disability was paid out of the sick funds which were maintained in large part by contributions by the workmen. See Frankel and Dawson, *Workingmen's Insurance in Europe* (1910), pp. 97, 249.

ists, intent on one single point, persisted in regarding the proposed bill as a rival to their own.

The bill was not reported out of committee. The members of the Commission had anticipated the immediate fate of the bill and had realized from the beginning that their functions were chiefly educational and that neither employers nor employees were prepared for immediate action. Two of the specific recommendations of the Commission, however, were adopted by the legislature: (1) the requirement that manufacturers should report all serious accidental injuries to the State Bureau of Labor Statistics (this would aid in giving arguments and statistical data for an accident insurance law); (2) the creation of a commission to study the questions relating to occupational diseases. The findings of such a commission would reveal the necessity for sickness and invalidity insurance. Both would be instrumental in keeping the subject before the public mind.

Professor Henderson stated that the question would not down. The City Club and the Industrial Club of Chicago took up the problem of accidents for serious consideration. Lawyers began to seek a constitutional way out. The newspapers were publishing stories of accidents which called for insurance protection. The charitable societies opened their records to the public, thus revealing the causes of pauperism in accidents, diseases, etc. and attempted to discover how far the occupation ought to carry the burden of incapacity for earning a living.<sup>1</sup>

In the preamble to the joint resolution creating the Industrial Insurance Commission, the Illinois General Assembly fully committed itself to the modern doctrine of social legislation. Yet there is room for doubt as to their appreciation of the meaning of their preamble, for it is said by "knowing" ones that they passed the resolution without much consideration and chiefly to get rid of the importunities of labor people and "reformers." The record contains, however, a statement of political principle which was in

<sup>1</sup> Charles R. Henderson, "Workingmen's Insurance in Illinois," in American Association for Labor Legislation, *Proceedings of the First Annual Meeting* (1907), pp. 69-84.



contradiction to the economic views of those adhering to the laissez faire policy which had been prevalent for many years, and is frankly and clearly an assertion of the duty of the state to care for the welfare of the working people.<sup>1</sup>

#### THE EMPLOYERS' LIABILITY COMMISSION OF 1910

Interest in the subject of compensation for industrial injuries was steadily growing throughout the state; but in the fall of 1909 this interest received a tremendous impetus from the mine disaster at Cherry, Illinois, in which 259 lives were lost. Governor Deneen seemed to be sincerely interested in the movement and early in December, 1909, called a special session of the General Assembly, one of its primary duties being to consider a change in the existing system of employers' liability.<sup>2</sup> The governor suggested the appointment of an Investigating Commission similar to those appointed in Minnesota, New York, and Wisconsin, and urged that the Commission be authorized at once so that it might be ready to take part in a joint meeting of Compensation Commissions to be held in Chicago during the following summer.<sup>3</sup>

A bill, drafted by Professor Ernst Freund, was passed providing for a Commission of twelve members, six representative employers and six representative employees, to be appointed by the governor. The duties of the Commission were to investigate the problem of industrial accidents, the present condition of the law of liability for injuries or death suffered in the course of industrial employment in Illinois and in other states or countries, and to inquire into the most equitable and effectual method of providing compensation for such losses. An appropriation of \$10,000 was made for the expenses of the Commission. A

<sup>1</sup> *Ibid.*, p. 84.

<sup>2</sup> The Illinois branch of the American Association for Labor Legislation, through its president, Professor Ernst Freund, directed a letter to Governor Deneen requesting him to consider the advisability of including in his call for a special session of the legislature the creation of a commission to investigate the problem of compensation for industrial accidents. See American Association for Labor Legislation, *Proceedings of the Third Annual Meeting* (1909), p. 26.

<sup>3</sup> *House Journal*, 1909-10, p. 18.

report of the investigations and recommendations was to be filed with the governor on or before September 15, 1910.<sup>1</sup> The bill was approved by the governor on March 4, and the Commission was appointed and called together for its first meeting at Springfield on March 24.<sup>2</sup>

With less than six months in which to make its investigations and reach its conclusions, it was necessary for the Commission to get to work immediately. During the period allowed, thirty executive sessions and thirteen public hearings were held. The Commission took an active part in the conference held in Chicago, June 10 and 11, by the National Conference upon Compensation for Industrial Accidents.

The commissioners and governor agreed that an investigation into the actual working conditions in the industries of the state should be made before any attempt was made to draft a new law or to suggest amendments to the existing law. Investigations were accordingly planned and carried on in three main divisions: special reports, statistical studies, and general inquiries.<sup>3</sup>

Among the special reports were two studies by the Commission's consulting attorney, Samuel A. Harper, entitled "The State of the Law in Illinois in Regard to Employers' Liability" and "Constitutionality of Workmen's Compensation Laws." In respect to the constitutionality of compensation legislation, Mr. Harper ex-

<sup>1</sup> House Bill No. 42, popularly known as the Hull Bill. It was substituted by the Committee on Appropriations for two other bills bearing on the same subject.

<sup>2</sup> Illinois Employers' Liability Commission, *Report* (1910), p. 15. The members of the commission were as follows: representing employers—I. G. Rawn, Mason B. Starring, Robert E. Conway, E. T. Bent, P. A. Peterson, Charles Piez, and W. J. Jackson (elected to succeed Mr. Rawn); representing employees—Edwin R. Wright, George Golden, Patrick Carr, M. J. Boyle, Daniel J. Gorman, and John Flora. Mr. Rawn was elected chairman. After the death of Mr. Rawn, Mr. Charles Piez, president of the Link Belt Company, Chicago, was elected chairman. The secretary and statistician was Edwin R. Wright, president of the Illinois State Federation of Labor. Mr. Wright also wrote the report of the Commission. Of the labor members, Mr. Flora and Mr. Boyle were selected by the Chicago Federation of Labor, the others by the Illinois State Federation of Labor.

<sup>3</sup> *Report* (1910), p. 16.

pressed the opinion that within another decade compulsory compensation legislation might be adopted without qualification, purely as a police measure; but since the benefits derivable from compensation were the real objective, rather than the mere establishment of the principle of compensation without negligence or fault, he thought it would be unwise at that time to enact an unqualified compulsory compensation law. He recommended a bill which so limited the rights and defenses of parties not accepting its provisions as virtually to compel acceptance.<sup>1</sup>

Another special study was a comparative analysis of insurance and compensation systems of European countries, tentative plans of state commissions, and benefit systems of private corporations.<sup>2</sup>

The chief emphasis of the Commission's investigation was placed upon a statistical study of industrial accidents in Illinois. Statistical studies, so far as data were available, were made for coal-mining, railroads, elevated and electric roads, manufacturing, the metal and building trades, considering in each the number of fatal and non-fatal accidents, the causes of the accidents and the nature of the injuries sustained, the number of dependents of the injured employees, the medical or funeral expenses, and the damages, if any, paid to the injured or his heirs.<sup>3</sup>

A study of two hundred industrial fatalities reported to the coroner of Cook County during 1908, and of 483 industrial fatalities reported to the authorities as occurring in other parts of the state, was made to discover the legal and economic results of such accidents, namely, the earning capacity of the workmen killed, the number of dependents, the compensation received from employers by suit or settlement, the amount paid to lawyers or agents, and the effect, so far as could be ascertained, upon the lives of the families.<sup>4</sup>

An inquiry was made into the cost of industrial accidents to five hundred employers in the state of Illinois in order to discover the total cost under the system of employers' liability and the pro-

<sup>1</sup> *Ibid.*, pp. 71-73.

<sup>2</sup> *Ibid.*, pp. 247, 248.

<sup>3</sup> *Ibid.*, pp. 117-82.

<sup>4</sup> *Ibid.*, pp. 16, 183-93.



portion of the amount spent on hospital and medical expenses, insurance premiums, attorney's fees, settlement, and damages.<sup>1</sup>

A study was also made of employers' liability insurance experience for the purpose of ascertaining the number of cases handled, the amount of settlements made, with and without suit, the proportion of payments to premiums received, etc.<sup>2</sup>

Questionnaires were sent to twelve hundred employers, members of the Illinois Manufacturers' Association and others, and to seventeen hundred labor organizations of the state, for the purpose of securing their opinion as to the justice and adequacy of the existing law relating to employers' liability, and as to the advisability of changing the law relating thereto. Some two hundred judges and lawyers were asked to give their opinion concerning the constitutionality of a proposed workmen's compensation law which should disregard all questions of negligence and be compulsory upon both employer and employee. American consuls resident in various foreign countries where compensation laws were in operation were asked to report concerning the operation of those laws.

A few illustrations will suffice to show the nature of the situation disclosed by the Commission's investigations. In the coal-mining industry a study of 120 fatal accidents occurring in 1908 showed that the average payment to the heirs of the deceased was approximately \$168. If instead of an average award of \$168 in cases of fatal accidents the sum of \$2,250 as suggested by the Commission's plan<sup>3</sup> were given, it would involve a charge of about 1.6 cents per ton of coal mined in Illinois.<sup>4</sup> The study throwing most light upon the inadequacy of the damage suit at common law in providing for the heirs of workmen killed in industry was that showing the average amount of compensation recovered in fatal accidents generally. A total of about 5000 accidents was investigated and of these approximately 1000 were fatal. Satisfactory rec-

<sup>1</sup> *Ibid.*, p. 17.

<sup>2</sup> *Ibid.*, p. 17.

<sup>3</sup> This represented three years' wages computed at \$2.50 a day and 300 working days a year.

<sup>4</sup> *Report* (1910), pp. 136, 138.

ords were procured for 617 of the fatalities. These 617 cases were checked up with so much care that the Commission believed that the facts secured were not only trustworthy in themselves, but were thoroughly representative of the situation prevailing in the

TABLE XIX

SETTLEMENT REACHED IN 617 INDUSTRIAL FATALITIES INVESTIGATED BY  
THE ILLINOIS EMPLOYERS' LIABILITY COMMISSION IN 1910\*

INDUSTRY†	TOTAL	SETTLEMENT OUT OF COURT		SETTLEMENT IN COURT		NUMBER OF SUITS PENDING	NO RECOVERY	AVERAGE AMOUNT RECOVERED IN CASES SETTLED
		Number	Average Recovery	Number	Average Recovery			
Railroads								
Trades . . . . .	202	135	\$1,437.18	10	\$2,078.30	34	25	\$1,294.65
Laborers . . . . .	77	50	936.13	3	245.67	13	12	742.87
Electric railroads								
Trades . . . . .	33	14	732.14	.....	.....	8	11	409.99
Laborers . . . . .	8	2	300.00	.....	.....	3	3	120.00
Building								
Trades . . . . .	38	14	932.14	1	200.00	7	16	427.42
Laborers . . . . .	16	.....	.....	.....	.....	8	8	.....
Miners . . . . .	120	26	294.18	10	1,102.15	9	75	168.19
Steel workers . . . . .	33	23	1,254.23	.....	.....	6	4	1,068.41
Miscellaneous								
trades . . . . .	28	6	1,336.67	.....	.....	7	15	381.90
Teamsters . . . . .	19	.....	.....	.....	.....	7	12	.....
Packing house . . . . .	16	2	1,875.00	.....	.....	2	12	267.86
Laborers . . . . .	18	4	693.75	.....	.....	4	10	198.21
Unclassified . . . . .	9	5	561.00	.....	.....	3	1	467.50
Total . . . . .	617‡	281	.....	24	.....	111	204	.....

\* This table is taken, with some modifications, from Illinois Employers' Liability Commission, *Report* (1910), pp. 12-13.

† This classification is the one used in the *Report*.

‡ Three railroad workers received compensation both "in" and "out" of court.

industries of Illinois. They demonstrate the inadequacy and injustice of the compensation system then prevailing. Table XIX shows the principal results of this study.

This table shows that in only 24 cases out of 617 (it should be noted that 111 cases were still pending) were damages awarded in court; that in 204 cases no settlement was effected; that in the railroad trades, in which it is usually thought that large amounts

are recovered, the average settlement was only \$1,294.65;<sup>1</sup> that in the mining industry there was no recovery in more than 60 per cent of the cases.

Records of the Appellate and Supreme Courts indicated that it was seldom that damages were actually received by the employee or his dependents within a period of less than three years after the accident occurred. There were numerous cases among those investigated in which the delay was as long as five, six, or seven years, and one case covered a period of nine years and six months before a final decision was rendered. Returns of all liability companies doing business in Illinois, covering a period of ten years, tabulated by the State Department of Insurance, showed that of the total indemnity paid on behalf of accidents occurring during the first year of the series, 16 per cent was paid during that year, 37 per cent the second year, 20 per cent the third year, 14 per cent the fourth year, and the remaining 13 per cent during the six succeeding years.

In twenty-eight consecutive master and servant cases heard by the Illinois Supreme Court, the number of lawyers engaged ranged from three to ten, with an average of about five and two-thirds. In the Appellate Court the average was four and one-third, and in the Municipal Court of Chicago a little more than three. The Commission thought that these averages were too low since in many cases attorneys not mentioned in the records were doubtless interested. These attorneys usually received from one-third to one half of the amount recovered by the injured workman. No statistics were given showing the sums paid to these attorneys, but it was

<sup>1</sup> In making this computation, the Employers' Liability Commission included as cases definitely settled without recovery the 34 cases in which suits were still pending. This resulted in a lowering of the average amount recovered. Calculated in this way, the railroad "trades" averaged \$1,076. Excluding these 34 cases, the average amount recovered was \$1,294.65 for the railroad trades. The writer has made similar corrections throughout the table. The amounts recovered were low, even though the unsettled cases are excluded in computing the average amounts recovered. The fact that the employers' defenses were modified or abrogated as previously discussed probably tended to increase the amounts recovered in certain instances.



stated that at that time the Illinois Bar Association charges were \$25 a day for office work and \$50 a day, and upwards, for court work in cases of this kind. It was estimated that out of every dollar paid by the employer for liability insurance, only about twenty-five cents ever reached the person injured or his dependents.<sup>1</sup>

In discussing the results of this statistical study, the Commission said:

This outline . . . scarcely hints at the situation which the Commission found. It gives no idea of the suffering and hardship which our investigations disclosed; it tells nothing of the long and tedious fights, of the inequitable verdicts, the delays and uncertainties of the law; it scarcely suggests the unequal character of the struggle between the claim agents and the families of the deceased breadwinner. But almost every individual case reflected some aspect or other of this sort, driving home to the members of the Commission the conviction that the present system was unjust, haphazard, inadequate and wasteful, the cause of enormous suffering, of much disrespect for law and of a badly distributed burden upon society.<sup>2</sup>

After the Commission had completed its preliminary investigation, it drafted a tentative outline of a compensation measure and had ten thousand copies printed and distributed throughout the state. This plan, which was designed merely as a topical index for discussion, proposed to limit the rights of the two parties so as to induce them to accept the method of compensation provided by the act, rather than to continue to use the damage suit under the common law. If the employer refused to pay compensation for injuries according to the scale provided in the act, the defenses of fellow service, assumption of risk, and contributory negligence were to be abrogated. If the employee accepted compensation under the act, he was to be debarred from action at common law; and if he should begin any action at law, he was to lose his right to compensation under the act. In case of death, if there were dependents, three years' wages, but not less than \$1,500 nor more than \$3,000, were to be paid. If there were no dependents, the amount paid was not to exceed \$200. For permanent disability,

<sup>1</sup> *Report* (1910), pp. 11, 14, 79.

<sup>2</sup> *Ibid.*, pp. 18-19.

compensation on the basis of 50 per cent of the earnings of the employee was to be paid, the total sum not to exceed four years' wages. For permanent partial disability, the percentage of compensation was to be reduced in proportion to the reduction in earning capacity. A waiting period of two weeks was provided. For temporary disability, if the disability lasted two weeks or more, compensation on the basis of 50 per cent of his earnings was to be awarded from the day the employee left work because of the accident, such compensation to be paid so long as the disability continued. The law was to apply to all employers having more than five persons in their employ.<sup>1</sup>

In order to submit its ideas directly to the industrial groups most concerned, to the legal fraternity, and to the people of the state, the Commission arranged for public hearings in East St. Louis, Springfield, Rock Island, Peoria, and Chicago. These public meetings were well attended and the suggestions of the Commission evoked wide discussion. In general, the outline of the Commission was well received, but in Chicago strong opposition developed. John Fitzpatrick, president of the Chicago Federation of Labor, and John O'Neill, of the City Firemen's Association, were particularly violent in their opposition. They thought that the lawyers of the "interests" could easily put a "joker" in the law and thereby defeat the efforts of organized labor, which had for years been directed toward a law limiting or abolishing the employers' common-law defenses. The representatives of organized labor were not opposed to compensation, but believed that an employers' liability law was the paramount issue. John Flora, a labor member of the Commission, said that compensation was not what the men wanted, but safe places in which to work. "They want to make it so expensive for the employers to kill their workmen that every safety appliance known to science will be installed."<sup>2</sup> The provision that the proposed law apply only to employers having more than five employees was objected to by organized labor. It was stated that if those employing five or less were exempt from the

<sup>1</sup> *Ibid.*, pp. 20-21.

<sup>2</sup> *Chicago Tribune*, August 26, 1910.

operation of the act, a large proportion of employers in some industries, building contractors, in particular, would not be affected.

With the resumption of executive sessions, the Commission began the work of drafting a compensation measure, but it was able at no time to agree on the details of a bill to be recommended. The act creating the Commission provided that no recommendation should be made that had not been agreed upon by a majority of the representatives on each side. Since it appeared impossible for the Commission to reach an agreement, no further effort was made to perfect a bill for recommendation. The final revision was included in the report of the Commission in the hope that it might be of service to those attempting to solve the problem in the future.

The draft included in the report followed in most respects the outline which had previously been made. In case the employer elected not to pay compensation under the act, only the assumption of risk and the fellow servant rules, however, were denied him as defenses in damage suits. A waiting period of one week was provided; but in case disability lasted longer than one week, compensation was to be paid from the date the employee left work because of the accident. In case of permanent total disability, compensation was to be paid for eight years equal to 50 per cent of the injured employee's average weekly earnings, but not less than \$5.00 nor more than \$10.00 per week. If complete disability continued after the expiration of eight years, an annual sum equal to 8 per cent of the death benefit which would have been payable had the accident resulted in death was to be paid during the life of the injured employee. Such compensation was to be not less than \$10.00 a month and was to be payable monthly.

The members of the Commission representing the employers objected to the part of the bill which provided that in case an employee was injured because of the wilful failure of the employer to comply with statutory safety regulations, nothing in the act should affect the present civil liability of the employer. They thought that this provision would open the way to endless litigation in the case of coal mines which operated under a special statute whose provisions were so general as to be open to several constructions.



They also thought the amount of compensation and the pension plan in cases of permanent total disability were too liberal. Public utilities, such as surface and elevated railroads which operated under a flat rate of five cents, were said to be situated differently from other industries in that they could not shift the burden of compensation to the consumer, and the act would therefore be unfair to them.<sup>1</sup>

Four of the labor members, Wright, Gorman, Carr, and Golden, expressed their belief in the theory of compensation, whereby the industry would bear the burden of accidents incident thereto. They believed, however, that such a law should be made compulsory on both employer and employee. They did not consider the compensation provided adequate and thought that compensation should be based upon the daily earnings rather than the "annual earnings" of the employee. They thought the law should be as automatic in its operation as would be consistent with the intent of such a law.

The other two labor members of the Commission, M. J. Boyle and John C. Flora, representatives of the Chicago Federation of Labor, refused to sign a recommendation for a compensation act because they believed that such an act should be preceded by a modification of the employers' defenses. They submitted a letter from the Chicago Federation of Labor which, they said, fully set forth their position in the matter. This letter stated that for years organized labor had repeatedly urged the Illinois legislature to enact an employers' liability law which would deprive the employer of his common-law defenses. It pointed out that after the Cherry mine disaster Governor Deneen called a special session of the legislature, one of the purposes of which was to consider the appointment of an Employers' Liability Commission rather than the enactment of an employers' liability act, as organized labor had urged. This, the letter stated, was the first time organized labor had been confronted by the principle of compensation. Previous to that time, the constant proposal had been one of industrial insurance. The Chicago Federation of Labor believed that organized labor was again to be denied justice and maintained that the enactment of a compensa-

<sup>1</sup> *Report* (1910), pp. 29-30.

tion measure previous to an employers' liability act was "putting the cart before the horse." They believed they would receive much less compensation under an automatic compensation plan than they would through damage suits if the employers were deprived of their so-called defenses. They stated that they had almost within their grasp the legislation they had sought for so many years, and that these other proposals were injected only to becloud the issue and to cause the workers to disagree among themselves as to the best course to pursue.

The members of the Commission representing the employers presented a statement expressing their views on the points raised by the Chicago Federation of Labor. They stated that in their opinion the officers of the Chicago Federation of Labor were "not only unfamiliar or unmindful of the economic waste involved in any Employers' Liability system, but that they have no knowledge of the total inadequacy of such a system, even when extended by such serious modification of the employers' defenses as the American Federation of Labor advocates."<sup>1</sup> The employers cited statistics of industrial accidents in Germany which showed that in that country 17 per cent of such accidents were due to negligence or fault of the employer, and consequently, under the existing system, injured employees were entitled to damages in that proportion of cases; but that if the employers' defenses were modified as suggested by the American Federation of Labor, the proportion entitled to recover would be increased to only 27 per cent. The remaining 73 per cent would have no remedy at law. It was assumed that conditions under which accidents occur in Illinois were not substantially different from those in Germany. The employers also pointed out the wasteful and unsatisfactory administration necessarily accompanying an employers' liability law. They expressed the opinion that "the problem of industrial accidents cannot be solved satisfactorily to all concerned until the question is taken out of the realm of tort and placed on the basis of definite compensation automatically paid."<sup>2</sup> The employers believed that the scale

<sup>1</sup> *Ibid.*, p. 36.

<sup>2</sup> *Ibid.*, p. 37.

of compensation allowed in the bill was all that the industries of the state could stand until they had been able to adjust themselves to the new conditions.<sup>1</sup>

#### PASSAGE OF THE FIRST WORKMEN'S COMPENSATION ACT

In his message to the 1911 General Assembly, Governor Deneen urged that steps be taken to meet the persistent demand for legislation respecting the liability of employers and compensation of workmen in cases of industrial accident, and called attention to the report of the Employers' Liability Commission which he said contained a very full discussion of the question although no bill had been agreed upon by the Commission. He stated, however, that the bill recommended by the National Civic Federation was available for use by the legislature. He informed the General Assembly that an effort was being made by representatives of employers and employees, through an unofficial voluntary conference, to reach an agreement upon forms of bills and recommendations to be submitted to that body during the current session; but in case this voluntary Commission should fail to reach an agreement early in the session, he suggested that he be given authority to appoint a new Commission which might be able to reach such an agreement. The work of the original Commission was so far advanced that the governor thought steps should be taken to secure its completion at the earliest possible moment.<sup>2</sup>

In the meantime this voluntary Commission<sup>3</sup> revised and re-drafted the tentative measure of the Employers' Liability Commission, without, however, making any important changes in the original draft, and submitted their bill to the governor. In a special message, the governor presented this measure to the House and Senate, and urged that legislation be enacted so that a beginning

<sup>1</sup> *Ibid.*, pp. 35-38.

<sup>2</sup> *House Journal*, 1911, pp. 37-39.

<sup>3</sup> Personnel the same as that of the Employers' Liability Commission, except that James F. Morris and T. K. Ball, both of Springfield, were invited on recommendation of Mr. Wright to take the places of John Flora and M. J. Boyle, the dissenting members of the former Commission.



might be made in solving the problem of compensation for industrial accidents.<sup>1</sup>

In both houses of the 1911 General Assembly bills were introduced and acted upon, some providing for abrogation of the employers' defenses, and others for compensation. Two employers' liability bills (S.B. Nos. 71 and 138) were introduced in the Senate and referred to the Committee on Labor, Mines, and Mining. This Committee, however, drafted a substitute measure, Senate Bill No. 401, which passed both the Senate and the House. In the House, five employers' liability bills and one compensation measure were introduced, but all of them disappeared in the records of the Committee on Labor and Industrial Affairs. On March 1, Senator Henson, chairman of the Committee on Labor, Mines, and Mining, introduced a bill (S.B. No. 283) "to promote the general welfare of the people of this State, by providing compensation for accidental injuries or death suffered in the course of employment." With some slight changes this measure was the bill recommended by the voluntary commission. On March 23, it was passed by the Senate and referred to the House. Certain amendments made by the House were accepted by the Senate and this bill was also submitted to the governor.<sup>2</sup>

Within the time allowed the governor to approve the bills, the manufacturers, and certain other employers,<sup>3</sup> who had made every effort to prevent their passage, filed a protest and made a request for a hearing so that they might have an opportunity to submit reasons purporting to justify the veto of both bills. The meeting was held in the Senate chamber on May 26, 1911, Governor Deneen presiding. It was attended by a great number of employers and representatives of labor unions. In response to an appeal sent out

<sup>1</sup> *House Journal*, 1911, pp. 384-92. The General Assembly of 1911 appropriated \$1,264.45 to reimburse members of the voluntary Commission for expenses incurred (*Laws of 1911*, p. 64).

<sup>2</sup> The friendly assistance of the speaker of the House, Mr. Charles Adkins, was invaluable in furthering the passage of the bill.

<sup>3</sup> Many were building contractors who later became proponents of the measure. The railroads were fairly well represented in the opposition although some favored the bill. The Illinois Manufacturers' Association led the opposition groups. The United States Steel Corporation stood firm for the measure.

by John M. Glenn, secretary of the Illinois Manufacturers' Association, about three hundred manufacturers, including nine carloads from Chicago, attended the meeting.<sup>1</sup> Briefs for and against the bills were submitted and every phase of the subject argued orally by the manufacturers and their attorneys, and by officials and other representatives of union labor.

The manufacturers, while declaring that they were not opposed to the principle of compensation to workmen for injuries without regard to fault of the employer, "protested against it becoming a law because it attempts to destroy all the defenses which an employer has to a suit for personal injury." A similar objection was urged against the liability act, although the authority of the legislature to modify these defenses was admitted. Two matters in particular were stressed: (1) the proposed act was in the nature of an innovation new to our institutions and fundamental law; and (2) the effect of its operation would be to "take away the property of one man and give it to another, where the person compelled to pay is without fault." The opinion was expressed that the courts of the country would never approve such radical enactments. It was charged that the provisions of the bill were in many respects vague and inconsistent; that both the minimum and maximum death benefits were too high, and that the burden imposed upon employers in Illinois would seriously handicap them in competing for business with producers in adjoining states who were exempt from such regulations and requirements.

The labor forces of the state were divided on the question of the relative merits of an employers' liability act and a compensation act. The officials of the Illinois State Federation of Labor were openly committed to a compensation act, and while not opposing the employers' liability bill, let it be understood that if only one measure was to be approved, they preferred the compensation act. The Chicago Federation of Labor, represented by its president, John Fitzpatrick, took the position that the compensation bill was a mere sop offered by the employers and that nothing short of a straight-out employers' liability law would be acceptable to the working classes. The Chicago Federation of Labor was not opposed

<sup>1</sup> See *Fuel*, XVII, 169; and *Chicago Tribune*, May 27 and 28, 1911.

to the principle of a compensation law, but insisted that it should follow and not precede an employers' liability law. The representatives of the Railway Trainmen also took this position.<sup>1</sup>

After mature reflection, the governor approved the compensation act and vetoed the liability act, assigning as a principal reason the fact that the measures were based upon different theories, the liability bill limiting recovery for personal injuries to adjudication through the courts with certain of the employers' defenses abolished while the compensation bill afforded "compensation in all cases of industrial accident coming within its provisions without recourse to litigation." He called attention to the provision in the liability bill which specifically exempted from its operation the occupation of farming, a discrimination which would on constitutional grounds sustain a veto. The fact that the compensation measure embodied the recommendations of the voluntary Commission representing both employers and employees was important in influencing the governor to approve only the compensation measure. This is apparent from the following statement of the governor:

It is plain, therefore, that but one of these bills should stand. In view of the fact that Senate Bill No. 283 is the result of the labor of a voluntary commission composed equally of the representatives of employes and employers, after careful study of the subject of workmen's compensation and employers' liability legislation and that the State has defined its policy<sup>2</sup> in reference thereto, it seems to me that preference should be given to Senate Bill No. 283, the Workmen's Compensation Act, and a test of it be made.<sup>3</sup>

<sup>1</sup> Illinois Bureau of Labor Statistics, *Labor Legislation Enacted by the 47th General Assembly* (1911), pp. 65-66. In the absence of strong sentiment throughout the state favoring legislation to solve the compensation problem, the corporation lobbyists might have secured the defeat of all such measures in the 1911 General Assembly, especially since the labor forces were divided.

<sup>2</sup> The measure for the Lakes-to-the-Gulf deep waterway plan contained a provision suggested by Professor Ernst Freund, that in the event the state assumed the work, anyone injured while employed in its construction should be adequately compensated. This provision was embodied in the committee report on deep waterways, but the legislature (1909) adjourned without enacting it into law. See American Association for Labor Legislation, *Proceedings of the Third Annual Meeting* (1909), pp. 24-25.

<sup>3</sup> Illinois Bureau of Labor Statistics, *Bulletin on the Workmen's Compensation Act* (1912), pp. 23-24.



In order to give the employers affected by the law opportunity to acquaint themselves with its provisions and to determine whether or not they would come under it or continue under the common law with certain defenses removed, a period of about eleven months was allowed before the act went into effect, May 1, 1912.

#### PROVISIONS OF THE LAW OF 1911

The law,<sup>1</sup> following the recommendation of Mr. Samuel A. Harper and in accord with a decision of the New York Supreme Court,<sup>2</sup> was nominally elective but virtually compulsory in certain enumerated hazardous employments, namely, the building, maintaining, or demolishing of any structure; any construction or electrical work; transportation and loading and unloading in connection therewith, except as to carriers coming under exclusive application of laws of the United States relating to liability to their employees for personal injuries incurred while engaged in interstate commerce; operating of general or terminal storehouses; mining and quarrying; any enterprise using or handling explosives, molten metal, injurious gases, or inflammable fluids in dangerous quantities; any enterprise in which statutory regulations required safety appliances.<sup>3</sup>

<sup>1</sup> *Laws of 1911*, p. 315.

<sup>2</sup> *Ives v. South Buffalo R. Co.*, 201 N.Y. 271 (1911), in which the Supreme Court of New York declared unconstitutional the New York law of 1910 because of its compulsory application to certain hazardous employments. This decision made necessary the withdrawal of the bill pending in the Illinois legislature in order that it might be changed from a compulsory to a nominally elective measure. Until 1917, when the United States Supreme Court affirmed the constitutionality of a compulsory compensation law, the influence of the Ives decision was far-reaching in making compensation laws nominally elective.

<sup>3</sup> Section 2. The scope of the act has been widened from time to time. In 1913, employees, but not officials, of state and local governments were included; in 1921, all employees engaged in any department of the enumerated extra-hazardous employments and persons protected by the Occupational Disease Law were brought under the act; in 1925, persons entering into the contract of employment in Illinois but who are sent outside the state to work, and those engaged in aerial service and in enterprises in which sharp-edged tools and grinders are used, were included; in 1927, employees of establishments engaged in land, water, or aerial transportation where

Only those employees were affected by the act who were exposed to the necessary hazards of carrying on any employment or enterprise enumerated in the foregoing. Clerks and administrative employees not exposed to the inherent hazards of the employment were specifically excluded. Persons whose employment was of a casual nature and who were employed otherwise than for the purpose of the employers' trade or business were not protected by the act (secs. 21, 22).

Under the act, employees were denied the right to recover damages by suit at common law, except that when the injury to the employee was caused by the intentional omission of the employer to comply with statutory safety regulations, the civil liability of the employer was not affected (sec. 3). Employers refusing to come under the act were denied the common-law defenses of assumption of risk, fellow service, and contributory negligence. Contributory negligence of the employee was, however, to be considered by the jury in reducing the amount of damages (sec. 1).

Unless notice of refusal to come under the act was filed with the State Bureau of Labor Statistics, election to provide and pay compensation according to its provisions was assumed.<sup>1</sup> Unless

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more than two (instead of more than three) persons were employed, and those of enterprises engaged in the laying out or improving of subdivisions of land and in the treating of cross-ties, switch-ties, telegraph poles, timber, and other wood with creosote or other preservatives, were included. In 1927, also, minors, whether legally or illegally employed, were included. Employers not definitely under the act have from the beginning been permitted to accept its provisions.

Some employments have been definitely excluded from the act. From 1911 to 1921, persons not exposed to the hazards of the enumerated extra-hazardous employments were excluded; casual employees and those not in the usual course of the employer's business have been excluded since 1911; farm labor has been definitely excluded since 1915; members of fire departments in cities of over two hundred thousand inhabitants and members of fire insurance patrols maintained by boards of underwriters have been excluded since 1923 and 1927, respectively. The law does not affect employees covered by laws of the United States where such laws have been held to be exclusive.

<sup>1</sup>Section 1. A considerable number of employers filed rejections. By July 1, 1912, a total of 5,020 rejections had been filed with the Bureau; but of these 890 had been withdrawn, leaving 4,130 in force on that date. Those wishing to withdraw their notices of rejection generally offered as explanation of their action that they

notice was given to the contrary, employees of employers accepting the application of the act were presumed to accept its provisions. In case an employee rejected the application of the act, his employer was not to be deprived of any of his common law or statutory defenses (sec. 1). Under the compensation act, compensation is only payable for accidental injuries<sup>1</sup> which are sustained by an

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had made further investigation of the matter or that they had reached satisfactory terms with liability companies.

Because of representations chiefly by persons having insurance to sell, many persons who were not affected by the law filed rejection notices. Typical of these were owners of small retail stores who delivered merchandise to customers or who perhaps used an electric motor in the process of grinding coffee. Others were owners of private residences whose basements were equipped with electrically driven mangles and washing machines. "In consequence of these misunderstandings, or intended misrepresentations by the agents of selfish interests, a vast number of rejection notices were filed by employers and others, the nature of whose work came in no sense within the reasonable and legitimate provisions of the law" (Illinois Bureau of Labor Statistics, *Bulletin on Workmen's Compensation Act* [1912], p. 11).

Of the industries clearly coming within the scope of the law, manufacturers led in the number of rejections with the filing of 1,066 notices. This represented a small percentage of the manufacturers of the state, the federal census of 1909 reporting approximately 18,000 for Illinois, and represented an even smaller percentage of the capital invested and men employed since it was estimated that fully three-fourths of these rejections came from small manufacturers who felt that they could not afford to compensate their injured employees. Steam and electric railroad companies filed 64 rejection notices. Building contractors of various sorts filed 774, presumably a small percentage of the total number of building contractors in the state. The coal operators filed 235 rejections. While this number represented only one-third of the total number of mines, their annual output constituted four-fifths of the coal produced in the entire state. On the whole, however, the employers of the state made fairly general acceptance of the act. Of the large number of workmen affected by the law, by July 1, 1912, only 614 had given notice to the Bureau of Labor Statistics of their rejection of its provisions (*ibid.*, pp. 15-16).

<sup>1</sup> The Illinois Supreme Court ruled that "an injury is accidental within the meaning of the Act, which occurs in the course of the employment unexpectedly and without the affirmative act or design of the employee," and that "an injury, to be accidental or the result of an accident, must be traceable to a definite time, place and cause" (*Matthiessen & Hegeler Zinc Co. v. Industrial Commission*, 284 Ill. 378 [1918]). The act, therefore, does not in itself cover occupational diseases. The term "accidental injuries" has been rather liberally interpreted by the Illinois courts: if it can be shown that there is a causal connection between the injury and the employment, compensation is usually granted.



employee arising "out of and in the course of" his employment.<sup>1</sup>

Under the 1911 act, in case of accident to an employee, the employer was to furnish "necessary first aid, medical, surgical and hospital services, also medicine and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of \$200, also necessary services of a physician or surgeon during such period of disability," unless such employee elected to secure his own physician or surgeon (sec. 5a).

If an injury resulted in death and the deceased left a widow or lineal heirs to whose support he had contributed within five years previous to the time of his death, the employer was to pay a sum equal to four times the average annual earnings of the employee, but not less than \$1,500, nor more than \$3,500. Any weekly payments the employer may have made, except necessary medical or surgical fees, were to be deducted in ascertaining the amount payable on death (sec. 4a). If the employee left collateral heirs dependent on his earnings, the employer was to pay to them such a percentage of the sum payable to direct heirs as the contributions which he had made to the support of these dependents bore to his earnings (sec. 4b).

All such compensation was to be paid in instalments equal to one-half the average earnings of the deceased at the same intervals at which the wages of the employee had been paid while he was living; or if payment at such intervals was not feasible, the instalments were to be paid weekly.

If the deceased left no heirs as enumerated above, the employer was to pay a sum not to exceed \$150 for burial expenses (sec. 4).

For non-fatal injuries, if the period of disability lasted longer than six working days, the employer was to pay compensation, in addition to medical benefits, equal to one-half of the earnings of the employee, but not less than \$5 nor more than \$12 a week, beginning on the eighth day of disability, and as long as the dis-

<sup>1</sup> For a case to be compensable under the act, it must be proved that the accident both arises "out of" and "in the course of" the employment (*Dietzen Co. v. Industrial Board*, 279 Ill. 11 [1917]).

ability lasted, not exceeding, however, a period of eight years from the date of the accident, or until the amount of compensation paid equaled the amount payable as death benefit (sec. 5b).

If the employee suffered permanent total disability, the employer was to pay compensation for the first eight years after the day the injury was received, equal to 50 per cent of the employee's earnings but not less than \$5, nor more than \$12 a week. If permanent total disability continued after the payment of a sum equal to the amount of the death benefit or after the expiration of eight years, annual compensation was to be paid during life equal to 8 per cent of the death benefit which would have been payable had the accident resulted in death. Such compensation was to be not less than \$10 a month and was payable monthly (sec. 5e).

If death occurred before the total of payments made equaled the amount payable at death, the dependents were to be paid the difference between the compensation for death and the sum of such payment, but in no case was this sum to be less than \$500 (sec. 5e). Under this provision, if the injured employee died during the period in which the amount already paid fell short by less than \$500 of the amount payable on death, the total amount paid, including the \$500 to be paid under this provision, would exceed the maximum death benefit provided by the act.

In cases of permanent total disability, after compensation had been paid at the specified rate for at least six months, the employer or the employee could petition any court of competent jurisdiction for a lump sum settlement of the amount remaining to be paid. For purposes of this section certain enumerated injuries were considered to constitute complete and permanent disability, namely, blindness or the total irrecoverable loss of sight, the loss of both feet or both hands, the loss of one hand and one foot, an injury to the spine resulting in permanent paralysis of the legs or arms, or a fracture of the skull resulting in incurable imbecility or insanity. These specific cases of permanent disability were not, however, to be construed as excluding other cases (sec. 5e).

In case of permanent partial disability, the employee was to receive compensation equal to one-half of the difference between

the average amount which he earned before the accident and the average amount he was able to earn after the accident (sec. 5d).

If an employee received serious and permanent disfigurement to the hands or face, but was not actually incapacitated from pursuing his customary employment so that it was possible to measure compensation in accordance with the act, he had the right to resort to the arbitration provisions of the act for the purpose of determining a reasonable amount of compensation to be paid for his injury. Such compensation, however, was not to exceed one-fourth the amount of his compensation had death resulted (sec. 5c).

Compensation payable under the act was to be based upon the annual earnings of the employee during the year next preceding the injury. In case the employee had not been engaged in the employment for a full year immediately preceding the accident, compensation was to be based upon the annual earnings which persons in the same class in the same employment were accustomed to receive. If this basis of computation were impossible or unreasonable, three hundred times the amount of the average daily earnings of the employee was to be used as a basis. In employments in which it was the custom to operate less than three hundred days a year, the number of days used as basis was to be the number it was the custom to work, but not less than two hundred (sec. 6).

No employee or beneficiary could waive any of the provisions of the act with respect to the amount of compensation payable thereunder; and any contract or agreement made by any employer with any employee or any other beneficiary of any claim under the provisions of the act within seven days after the injury, was presumed to be fraudulent (sec. 12).

Notice to the employer by the employee in case of injury was required unless the employer already knew of the accident (sec. 14).

In order to guarantee payment of compensation under the act, employers could insure in commercial or mutual insurance companies operating under the insurance laws of the state. The carrying of such insurance was not required by the act; but any person entitled to receive compensation under the act was given the same preferential claim therefor against the property of the employer as



was then allowed by law for a claim by such person against such employer for unpaid wages or for personal services. Such preference was to prevail against wage claims of all other employees not entitled to compensation for injuries. Compensation payments were not subject to attachment, levy, execution, garnishment, or satisfaction of debts except insofar as wages were subject to those rights of action. Claims of attorneys for services in securing a recovery under the act were not an enforceable lien thereon unless the amount of such claim was approved in writing by a judge of a court of record (sec. 11).

The act of 1911 provided no board or other administrative body to administer and enforce its provisions. According to Mr. Edwin R. Wright, then president of the Illinois State Federation of Labor and a member of the Employers' Liability Commission and the voluntary Commission, provision for administration of the act was purposely omitted because the 1911 General Assembly had declared time after time that it would not create any new state officials, thus making the friends of the bill unwilling to jeopardize its passage by asking for a state board to administer the measure, and because some thought the bill would work without supervision.<sup>1</sup> This defect, however, immediately became apparent. The clerical duty of receiving accident reports and of accepting rejection notices of employers and employees not desiring to come under the act was assigned to the Bureau of Labor Statistics, but the fact that the Bureau was mentioned in the act made it at once the agency to which all looked for help in interpreting the provisions and in determining the application of the law. Technically, under the law, the Bureau could have refused to accept this additional responsibility, but so great was the interest in the law that it willingly rendered in this extra-legal manner every service in its power. The Bureau prepared a number of different blanks and forms for use by employers in giving notice to employees, making accident reports, and the like, and distributed thousands of them to employers, labor organizations, insurance companies, attorneys, and

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1913 Convention*, president's report.

other agencies.<sup>1</sup> This work, though of great importance, was but preliminary to control over the actual operation of the law. The administration of the act was clearly beyond the powers of the Bureau.

Disputes arising under the act were to be settled by agreement or by arbitration. Any question of law or fact arising in regard to the determination of the amount of compensation payable under the act was to be settled by voluntary agreement of the parties. In case an agreement could not be reached, the employer and the employee were each to select a disinterested party and one of the local court judges was to appoint a third disinterested party, the three to form an arbitration board to hear the evidence and reach a decision which should be binding upon both employer and employee. Either side, however, could appeal from the award of the arbitrators to the circuit court or the court that appointed the third arbitrator. Upon such appeal the questions in dispute were to be heard *de novo*, and either party had the right to demand a jury (sec. 10).

#### AMENDMENTS TO THE LAW

Many defects in the law being clearly apparent, organized labor determined to work for their correction. The 1912 convention of the Illinois State Federation of Labor instructed the officers of the State Federation to retain competent counsel to redraft the law, to reintroduce it into the legislature, and to work for its passage. Messrs. Stedman and Harper drafted a bill embodying the desired changes. After giving the State Federation a "tremendous scolding" and placing the entire responsibility for the effects of the compensation law upon the State Federation, the Chicago Federation of Labor ordered its legislative committee to aid the State Federation in securing the passage of the bill. The State Federation was willing to accept full responsibility for the effects of an act based upon the compensation principle, so organized labor in Illinois again became a unit insofar as legislative activity was

<sup>1</sup> Illinois Bureau of Labor Statistics, *Bulletin on Workmen's Compensation Act* (1912), pp. 6-8.

concerned.<sup>1</sup> Although some of the employers supported the bill, bitter opposition developed in the House and for a time it looked as though the bill would fail. It passed, however, in the form in which it was originally recommended.

In addition to numerous minor changes, the act of 1913 made two changes of major importance, namely, the creation of a non-political Industrial Board of three members appointed by the governor for terms of six years to administer the law, and the enactment of definite insurance provisions.

Beginning with 1915, the Industrial Board requested the employers and the employees under the act to reach agreements concerning amendments which both sides should support in the General Assembly. Except for the year 1923, all amendments to the law have been agreed upon in advance and the legislature has passed them without question. In 1915, the agreed bill increased the amounts payable as compensation in certain cases, and changed in some respects the procedure to be followed in settling claims under the act. John H. Walker, president of the Illinois State Federation of Labor, stated that while these amendments fell short of what labor hoped to secure, the wisest course for labor to follow was to accept the improvements made possible by the joint agreement rather than to refuse them and risk failure in securing by its own efforts amendments of greater value. He was "thoroughly convinced that had we not reached an agreement on this bill, we would have been unable to procure anything at all that meant progress."<sup>2</sup> The members of the joint committee representing the employers agreed with the labor members that a compulsory com-

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1913 Convention*, p. 28.

<sup>2</sup> Illinois State Federation of Labor, *Proceedings of the 1915 Convention*, p. 68. The entire matter has been one of cumulative compromise. The demands of labor have been determined by expediency. Labor argues that when a man is injured he needs more money than when he is well, but the employers of course will not consent to such payments as this. Labor therefore tempers its demands and by compromise slowly advances the standards of the law. It should be pointed out, however, that the rise in the general level of prices which has occurred since the enactment of the Workmen's Compensation Act has lowered the purchasing power of monetary benefits in many instances below the already low standard of the first law.



pensation law was necessary if the law were to operate equitably and justly to all employers as well as to the employees. An amendment to the state constitution was introduced in the 1915 legislature permitting a compulsory compensation law, but it failed to pass.<sup>1</sup>

A very important amendment to the law was made in 1917. In a decision handed down on March 6, 1917, the United States Supreme Court affirmed the constitutionality of a compulsory compensation law in the case of the *New York Central Ry. Co. v. White*, 243 U.S. 188, thus bringing within constitutional limitations the enactment of similar laws in the various states. In Illinois a joint committee of employers and employees called together by the Industrial Board agreed upon such a measure and had it introduced in the 1917 General Assembly. In a special message, Governor Lowden recommended its passage and called attention to the fact that a compulsory law was then constitutional. He expressed the opinion that a compulsory law would benefit, in the long run, the employer, the employee, and the public alike. The bill was passed as recommended.

The scope of the act was not changed, but its provisions were made to apply automatically and without election to all employers and their employees engaged in any of the enumerated extra-hazardous industries (sec. 3). A sliding scale was introduced varying compensation payments according to the number of children of the injured workman. The Industrial Board<sup>2</sup> was enlarged from three to five members.<sup>3</sup>

The 1919 act liberalized the provisions for medical benefits to injured employees, increased the minimum weekly compensation payments, and gave the Industrial Commission greater control over companies writing workmen's compensation insurance in the state.

<sup>1</sup> *Ibid.*, p. 69.

<sup>2</sup> The Industrial Board was renamed the Industrial Commission.

<sup>3</sup> Two laws were passed in 1917, both of which amended several sections of the compensation act. The first one was approved on May 31, 1917, and did not contain the compulsory clause (*Laws of 1917*, p. 490). The other, approved June 25, 1917, was compulsory upon the enumerated employments (*Laws of 1917*, p. 505).

In 1921, the Industrial Commission again requested the employers and employees to meet for the purpose of drafting amendments to the law. A committee of twenty-six trade unionists appointed by President John H. Walker of the Illinois State Federation of Labor drew up amendments embodying changes the labor interests desired, and these were presented to the joint committee of employers and employees on January 7, 1921, when that committee met at the rooms of the Industrial Commission. This joint committee was unable to agree, and it was decided that each group should select a committee of three and that this joint subcommittee of six should meet and endeavor to reach an agreement on the amendments submitted. The subcommittee held five meetings but failed to reach a final agreement. When the subcommittee made its report to the joint committee it was decided that the subcommittee should continue its efforts to reach an agreement and full power was given its members to secure the best possible agreement on the questions at issue. A majority of the committee voted that weekly benefits should be increased by the amount of \$2.00. The representative of the Coal Operators' Association repudiated the work of the whole committee because he did not approve this action, and withdrew from the conferences. The coal operators supported him in this stand and fought the whole agreement. The representatives of the other employers' associations continued with the conferences, negotiated an agreement with the labor representatives, and abided by the result. The amendments agreed upon were embodied in a bill, Senate Bill No. 222, which was introduced in the 1921 General Assembly by Senator John Dailey, of Peoria. It was known as the agreed compensation bill.

The coal operators drafted a bill which included none of the liberalizing clauses of the agreed compensation bill, and which was in some respects an attack upon some features of the existing law. One amendment proposed to exclude aliens who were beneficiaries but who resided in foreign countries from the benefit of the compensation law, and to exclude unnaturalized aliens residing in this country from the benefit of the law provided they had been resident

in the United States long enough to acquire citizenship. The labor forces charged the coal operators with the desire to encourage the employment of aliens to the exclusion of Americans so that their compensation payments would be less. The reply was an admission of the likelihood of such an effect, but it was stated that the harshness of the amendment would be softened somewhat by the fact that Congress was about to pass a limited exclusion act. Another amendment provided that settlement made without fraud by those competent to contract should be binding. The labor forces considered this "a deliberate attempt to afford the employers of the state an opportunity to prey upon the necessities of the widows and orphans of those killed in the industrial life and of the injured employees," and characterized such a provision as "a departure from the theory of every Compensation Act in the world." Other amendments included in the bill would have had somewhat similar effects. This bill was also introduced by Senator Dailey. Both the agreed compensation bill and the coal operators' bill were referred to the Committee on Judiciary of which Senator Dailey was chairman. He appointed a subcommittee of three to consider the bills. Two of the three members were very antagonistic to labor, and the labor representatives recognized that they would have to make some concessions or lose some of the advantages they had previously gained. Out of this conflict came Senate Bill No. 525, known as the Committee Bill. This bill was passed by both houses and approved by the governor.<sup>1</sup>

The 1921 act increased the scale of compensation benefits and made numerous other minor changes.<sup>2</sup> The Occupational Disease

<sup>1</sup> *Laws of 1921*, p. 446.

<sup>2</sup> Review by the courts was limited to matter presented by the record of the Commission, no additional evidence being allowed, and findings of fact were not to be set aside "unless contrary to the manifest weight of the evidence." The courts were given the right to review the facts in a case in order to avoid the possibility that they might hold the act unconstitutional because it denied review of the facts in a court of record.

The United States Supreme Court in the case of *Ohio Valley Water Co. v. Ben Aron Borough*, 253 U.S. 287 (1920), held that withholding from the courts the power to determine the question of confiscation according to their own independent judg-



Law was also amended in 1921 in order to make diseases under that act compensable under the compensation law the same as other injuries.<sup>1</sup> Early in 1923, this amendment was declared unconstitutional by the Illinois Supreme Court because of the failure of the legislature to comply with the technical procedure prescribed for amending statutes.<sup>2</sup> This defect was corrected in 1923.<sup>3</sup>

Thus far the joint conference method of deciding on amendments to be supported by both sides in the legislature had been very important in obtaining needed improvements in the law. A statement by President John H. Walker to the 1921 convention of the Illinois State Federation of Labor sets this forth very clearly. Walker said,

I say to you frankly that there has never been a time since we started trying to get a compensation law enacted that if we hadn't got an agreement with the employers affected by it we would have been unable to get a single line through that they were opposed to. . . . The ambulance chasing, crooked politicians that have no human feeling and human decency in the legislature would not give the widows and orphans as much as the employers were willing to give them.<sup>4</sup>

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ment, when the act of a state public service commission comes to be considered on appeal, must be deemed to deny due process of law.

Some of the ablest lawyers in Illinois were of the opinion that the United States Supreme Court in this case laid down a principle that would make the Illinois act unconstitutional in denying the reviewing court the right to pass on the facts as well as the law. Realizing that such a result would have been disastrous, the legislature passed the amendment under discussion (statement of Mr. Andrus in *Proceedings of the 8th Annual Convention* of the International Association of Industrial Accident Boards and Commissions, United States Bureau of Labor Statistics, Bulletin 304, p. 6).

The provision that findings of fact were not to be set aside "unless contrary to the manifest weight of the evidence" was, however, held to be a void attempt to prescribe a rule governing judicial action and is unconstitutional (*Otis Elevator Co. v. Industrial Commission*, 302 Ill. 90 [1922]).

<sup>1</sup> *Laws of 1921*, p. 444.

<sup>2</sup> *Kelley v. St. Louis Smelting and Refining Co.*, 307 Ill. 367 (1923).

<sup>3</sup> *Laws of 1923*, p. 351.

<sup>4</sup> Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1921), p. 317.

He stated, however, that "year by year our experiences in attempting to make reasonable progress under the compensation law by joint conferences have been getting more and more difficult, disagreeable, and more and more uncertain," and said that labor's representatives had been questioning whether or not it might not be better to discontinue the joint conferences and simply come before the legislature asking for what they believed they were entitled to and make the best fight they could. The attitude of the coal operators with respect to the 1921 joint conference led him to believe that there was "little prospect of securing further reasonable consideration for the workers in this matter by pursuing the joint conference method unless some radical changes are made in the attitude of the employers' associations dealing with this question which will insure the keeping in good faith of agreements reached," and he recommended "that the course to be pursued by the representatives of the State Federation of Labor on this particular matter in the future is to present our case direct to the legislature; that we give credit to the men who support us."<sup>1</sup>

In 1923, organized labor and the employers did not unite in sponsoring a bill amending the compensation law. Instead, the labor forces drafted a bill to amend the law by adding to the list of extra-hazardous industries any enterprise in which sharp-edged cutting tools, grinders, or implements are used, by extending the act to include employment out of the state<sup>2</sup> when the contract for such employment was entered into in this state, and by providing for increases in compensation payments and numerous other changes. The bill was introduced by Representative Soderstrom

<sup>1</sup> *Ibid.*, pp. 85-86.

<sup>2</sup> In the case of *Union Bridge Co. v. Industrial Commission*, 287 Ill. 396 (1919), the Illinois Supreme Court held that the Workmen's Compensation Act applied only to injuries resulting from accidents occurring within the boundaries of the state. The proposed amendment was to meet the situation created by this decision. For a number of years it was thought by the employers, and the Commission so held, that the act did apply to accidents outside the state, particularly when the employer and employee resided in this state and the contract of employment was entered into within this state and the employee was working temporarily outside the state.

TABLE XX

DEVELOPMENT OF CERTAIN PROVISIONS OF THE ILLINOIS WORKMEN'S  
COMPENSATION LAW, 1911 TO 1927

YEAR	EMPLOYMENTS COVERED	
	Private*	Public
1911.....	Elective as to "especially dangerous" employments enumerated; casual employees not in employer's line of business, and those not exposed to hazards of employment excepted	
1913.....	Elective as to "extra-hazardous" employments enumerated; casual employees and those not in usual course of employer's business excepted; voluntary as to excepted employments	Compulsory as to all employees except officials or beneficiaries of established pension fund
1915.....	Elective as to "extra-hazardous" employments enumerated; farm labor and persons whose employment is casual and not in usual course of employer's business excepted; voluntary as to excepted employments	—do—
1917.....	Compulsory as to "extra-hazardous" employments enumerated; farm labor and persons not in usual course of employer's business excepted; voluntary as to excepted employments	Compulsory as to all employees except officials
1919.....	—do—	—do—
1921.....	Compulsory as to every department in the "extra-hazardous" employments enumerated; farm labor and persons not in usual course of employer's business excepted; voluntary as to excepted employments	—do—
1923.....	—do—	Compulsory as to all employees except officials and members of fire departments in cities of 200,000 or more inhabitants
1925.....	Compulsory as to every department in the "extra-hazardous" employments enumerated, and to persons working outside the state if contract of employment was made within the state; farm labor and persons not in usual course of employer's business excepted; voluntary as to excepted employments	—do—
1927.....	—do—	Compulsory as to all employees except officials, members of fire departments in cities of 200,000 or more inhabitants, and members of fire insurance patrol maintained by board of underwriters

\* Does not affect those covered by laws of the United States where such laws are held to be exclusive.



TABLE XX—Continued

YEAR	HOW ELECTION IS MADE		DEFENSES ABROGATED IF EMPLOYER DOES NOT ELECT
	By Employer	By Employee	
1911...	Presumed as to employers in designated "especially dangerous" employments in absence of written notice to State Bureau of Labor Statistics	Presumed in absence of written notice to State Bureau of Labor Statistics if employer elects	Assumed risks, fellow-service, contributory negligence, as to employers in designated "especially dangerous" employments; contributory negligence to be considered by jury in reducing amount of damages
1913...	Presumed as to employers in designated extra-hazardous employments in absence of written notice; other employers file notice of election	Presumed in absence of written notice if employer elects	Assumed risks, fellow-service, and contributory negligence, as to employers in designated extra-hazardous employments; no consideration given to contributory negligence
1915...	— do —	— do —	Assumed risks, fellow-service, and contributory negligence, as to employers in designated extra-hazardous employments (all work on farms, etc., excepted)
1917...	Employers not automatically under the act may come under it by filing notice of election with Industrial Board	If not automatically under the act, election is presumed in absence of written notice to Industrial Board if employer elects	Those having privilege of electing, but do not do so, forfeit no defenses
1919...	— do —	— do —	— do —
1921...	— do —	— do —	— do —
1923...	— do —	— do —	— do —
1925...	— do —	— do —	— do —
1927...	— do —	— do —	— do —

TABLE XX—Continued

YEAR	SUITS FOR DAMAGES		INSURANCE
	If Both Employer and Employee Come under the Act	If Employer Elects but Employee Rejects	
1911...	Permitted if injury was caused by intentional omission of employer to comply with statutory safety regulations; permitted if employer fails to pay; permitted against employer's insurance company if employer is insolvent	Defenses remain	Not required; employer belonging to any insurance association must contribute enough to pay full compensation to the employee, exclusive of contributions made by the employee
1913...	Permitted only if employer fails to insure payment of compensation in manner satisfactory to the Board; defenses abolished in case of suits under this provision	— do —	Employer must give proof of financial ability, furnish security, insure, or make other provision for security
1915...	— do —	— do —	— do —
1917...	— do —	Not stated in the law	— do —
1919...	Not permitted	— do —	— do —
1921...	— do —	— do —	— do —
1923...	— do —	— do —	— do —
1925...	— do † —	— do —	— do —
1927...	— do —	— do —	— do —

† Right of action granted by Occupational Diseases Act to employees and their dependents for occupational disease resulting from employer's failure to provide approved devices for prevention of occupational disease.

TABLE XX—Continued

YEAR	SPECIAL CONTRACTS	INJURIES COVERED	WAITING PERIOD
1911...	See under "Insurance"	Accidental injuries arising out of and in the course of employment	One week; none in cases of total permanent disability
1913...	Employer may insure or maintain benefit fund, but may not reduce liability fixed by law; no waiver of provisions of act as to amount of compensation without approval of Board	do	do
1915...	Approved schemes permitted if benefits equal those of act; no waiver of provisions of act as to amount of compensation without approval of Board	do	do
1917...	do	do	do
1919...	do	do	One week; none if disability continues for four weeks or more
1921...	do	Accidental injuries arising out of and in the course of employment; occupational diseases in certain occupations included by separate act†	do
1923...	do	do	do
1925...	do	do	do
1927...	do	do	do

† Declared unconstitutional, 1923; re-enacted with proper changes, 1923.



TABLE XX—Continued

YEAR	COMPENSATION BENEFITS			
	Percentage of Wages	Minimum and Maximum Weekly Compensation Payments	Maximum Period	For Death, with (a) Dependents; (b) No Dependents
1911..	50%	Minimum, \$5; maximum, \$12	Permanent total disability, life; permanent partial disability, 8 years; temporary disability, during its continuance	(a) 4 years' earnings; minimum, \$1,500; maximum, \$3,500; (b) burial expenses, maximum, \$150
1913..	do	do	do	do
1915..	do	Minimum, \$6; maximum, \$12	do	(a) 4 years' earnings; minimum, \$1,650; maximum, \$3,500; (b) burial expenses, maximum, \$150
1917..	For disability, 50 to 65%	Minimum, \$6 to \$7.50; maximum, \$12 to \$15	do	(a) 4 years' earnings; minimum, \$1,650 to \$1,850; maximum, \$3,500 to \$4,000; (b) burial expenses, maximum, \$150
1919..	do	Minimum, \$7 to \$10; maximum, \$12 to \$15	do	do
1921..	do	Minimum, \$7.50 to \$10.50; maximum, \$14 to \$17	do	(a) 4 years' earnings; minimum, \$1,650 to \$1,850; maximum, \$3,750 to \$4,250; (b) burial expenses, maximum, \$150
1923..	do	do	do	do
1925..	do	Minimum, \$7.50 to \$14; maximum, \$14 to \$19	do	(a) 4 years' earnings; minimum, \$1,650 to \$2,100; maximum, \$3,750 to \$4,350; (b) burial expenses, maximum, \$150; additional \$300 into state fund to care for second-injury cases
1927..	do	do	do	(a) 4 years' earnings; minimum, \$1,650 to \$2,350; maximum, \$3,750 to \$4,550; if amounts payable to collateral heirs are less than \$450, the difference between that amount and \$450 to be paid into State fund to care for second-injury cases; (b) burial expenses, maximum, \$150; additional \$300 into state fund to care for second-injury cases; (a) and (b) 50% additional compensation required if minors under 16 are injured while illegally employed

TABLE XX—Continued

YEAR	COMPENSATION BENEFITS	
	Total Disability (a) Permanent (b) Temporary	Partial Disability
1911....	(a) 50% of weekly earnings for 8 years; weekly minimum, \$5; maximum, \$12; up to \$3,500; thereafter 8% of death benefit annually for life, minimum, \$10 a month; (b) 50% of earnings during disability, weekly minimum, \$5; maximum, \$12; up to amount payable as death benefit	50% of wage loss during disability, weekly maximum, \$12; not over 8 years; disfigurement of hands or face, maximum one-fourth death benefits
1913....	(a) 50% of weekly earnings for 8 years; weekly minimum, \$5; maximum, \$12; up to \$3,500; thereafter 8% of death benefits annually for life, minimum, \$10 a month; (b) 50% of earnings during disability, weekly minimum, \$5; maximum, \$12; total not over \$3,500	50% of wage loss during disability, weekly maximum, \$12; not over 8 years and not to exceed sum payable as death benefit. Specified injuries, 50% of wages for fixed periods, in addition to temporary total. Disfigurement of head, hands, or face, maximum one-fourth death benefits
1915....	(a) 50% of weekly earnings for 8 years; weekly minimum, \$6; maximum, \$12; up to \$3,500; thereafter 8% of death benefits annually for life, minimum \$10 a month; (b) 50% of earnings during disability; weekly minimum, \$6; maximum, \$12; total not over \$3,500	50% of wage loss during disability, not over 8 years and not to exceed sum payable as death benefit; weekly maximum, \$12; specified injuries, 50% of wages for fixed periods; weekly minimum, \$6; maximum, \$12; in addition to temporary total; disfigurement of head, hands, or face, maximum one-fourth death benefits
1917....	(a) 50 to 65% of weekly earnings for 8 years; weekly minimum, \$6 to \$7.50; maximum, \$12 to \$15; total up to sum that would have been payable as death benefit; thereafter 8% of death benefit annually for life, minimum, \$10 a month; (b) 50 to 65% of earnings during disability; weekly minimum, \$6 to \$7.50; maximum, \$12 to \$15; total not to exceed death benefit	50 to 65% of wage loss during disability, not over 8 years and not to exceed sum payable as death benefit; weekly maximum, \$12 to \$15; specified injuries, 50 to 65% of wages for fixed periods; minimum, \$6 to \$7.50; maximum, \$12 to \$15; in addition to temporary total; disfigurement to head, hand, or face, maximum, one-fourth death benefits
1919....	(a) 50 to 65% of weekly earnings for 8 years or until total paid equals sum that would have been payable as death benefit, weekly minimum, \$7 to \$10; maximum, \$12 to \$15; thereafter 8% of death benefit annually for life, minimum, \$10 a month; (b) 50 to 65% of earnings during disability, weekly minimum, \$7 to \$10; maximum, \$12 to \$15; total not to exceed death benefit	50 to 65% of wage loss during disability, not over 8 years and not to exceed sum payable as death benefit; weekly maximum, \$12 to \$15; specified injuries, 50 to 65% of wages for fixed periods; minimum, \$7 to \$10; maximum, \$12 to \$15; in addition to temporary total; disfigurement to head, hand, or face, maximum one-fourth death benefit
1921....	(a) 50 to 65% of weekly earnings for 8 years or until total paid equals sum that would have been payable as death benefit; weekly minimum, \$7.50 to \$10.50; maximum, \$14 to \$17; thereafter 8% of death benefit annually for life, minimum, \$10 a month; (b) 50 to 65% of earnings during disability, weekly minimum, \$7.50 to \$10.50; maximum, \$14 to \$17; total not to exceed death benefit	50 to 65% of wage loss during disability, not over 8 years and not to exceed sum payable as death benefit, weekly maximum, \$14 to \$17; specified injuries, 50 to 65% of wages for fixed periods, minimum, \$7.50 to \$10.50; maximum, \$14 to \$17, in addition to temporary total; disfigurement to head, hand, or face, maximum, one-fourth death benefit
1923....	do	do
1925....	(a) 50 to 65% of weekly earnings for 8 years or until total paid equals sum that would have been payable as death benefit; weekly minimum, \$7.50 to \$14; maximum, \$14 to \$19; thereafter 8% of death benefits annually for life, minimum, \$10 a month; (b) 50 to 65% of earnings during disability, weekly minimum, \$7.50 to \$14; maximum, \$14 to \$19; total not to exceed death benefit	50 to 65% of wage loss during disability, not over 8 years and not to exceed sum payable as death benefit; weekly maximum, \$14 to \$19; specified injuries, 50 to 65% of wages for fixed periods, weekly minimum, \$7.50 to \$14; maximum, \$14 to \$19, in addition to temporary total; disfigurement to head, hand, or face, maximum one-fourth death benefit
1927....	Same as 1925, except that 50% additional compensation is required if minors under 16 are injured while illegally employed	Same as 1925, except that 50% additional compensation is required if minors under 16 are injured while illegally employed

TABLE XX—Continued

YEAR	MEDICAL AND SURGICAL AID	LUMP-SUM PAY- MENTS	TIME FOR NOTICE AND CLAIM
1911...	Necessary first aid, medical, surgical, and hospital services; medicine and hospital services not longer than 8 weeks, maximum \$200; also necessary services of physician or surgeon for 8 weeks unless employee elects to secure his own physician or surgeon	May be ordered by county court of competent jurisdiction upon petition of employer or employee	Notice as soon as practicable, within 30 days for temporary disability, within 6 months in case of death or incapacity of employee; notice not required if employer already knew of accident; claim in 6 months
1913...	Necessary medical, surgical, and hospital services for not longer than 8 weeks, maximum \$200; employee may provide his own at his own expense	May be ordered by Industrial Board upon petition by employer or employee if it appears to the best interest of the parties concerned	Notice as soon as practicable, not later than 30 days after the accident; claim in six months
1915...	— do —	— do —	— do —
1917...	— do —	— do —	— do —
1919...	Necessary medical, surgical, and hospital services for 8 weeks, maximum \$200; full hospital service during compensation payments; additional medical and surgical aid as long as hospital treatment is required; employee may provide his own at his own expense	— do —	— do —
1921...	— do —	— do —	— do —
1923...	— do —	— do —	— do —
1925...	All medical, surgical, and hospital services reasonably required to cure or relieve employee from effects of injury; artificial limbs and other appliances to be provided; employee may provide his own medical service at his own expense	— do —	Notice as soon as practicable, not later than 30 days after accident; hernia cases not later than 15 days after accident, claim in 6 months
1927...	— do —	— do —	— do —



TABLE XX—Continued

YEAR	(a) BY WHOM ADMINISTERED (b) HOW CLAIMS ARE SETTLED	ACCIDENT REPORTS
1911....	(a) Courts; (b) voluntary agreement not before 7 days after injury; disputed cases settled by board of arbitration composed of 3 persons, one representing the employer, one the employee, and one appointed by the court; either party may appeal to the court; questions to be heard <i>de novo</i> ; jury allowed if so petitioned	All employers within provisions of act must report all injuries of more than one week's disability to State Bureau of Labor Statistics; fatal accidents at once, others once a month
1913....	(a) Industrial Board; (b) voluntary agreement not before 7 days after injury; if this fails, a committee of arbitration reaches decision subject to review by Industrial Board; Supreme Court may review questions of law involved in decisions	All employers within provisions of act must report all injuries of more than one week's disability to Industrial Board; fatal accidents at once; others once a month; supplementary report of permanent disability cases
1915....	(a) Industrial Board; (b) voluntary agreement not before 7 days after injury; disputed cases settled by arbitrator appointed by Board; in case of death or permanent disability, by arbitration committee of 3, composed of representatives of each party and a member of Board, upon application of either party; review by full Board; appeal to courts upon questions of law	do
1917....	(a) Industrial Commission; (b) voluntary agreement not before 7 days after injury; disputed cases settled by arbitrator or arbitration committee; review by Commission; appeal to courts upon questions of law	do
1919....	do	do
1921....	(a) Industrial Commission; (b) voluntary agreement not before 7 days after injury; disputed cases settled by arbitrator or arbitration committee; review by Commission; appeal to courts upon questions of law and fact	do
1923....	do	do
1925....	do	do
1927....	do	do

and was passed by the House, but the Senate committee to which it was referred was not convened for a hearing and the bill was lost. Organized labor places the responsibility for its defeat upon the chairman of the Senate committee.<sup>1</sup>

In 1925, the Industrial Commission again called upon the employers and organized labor to reach an agreement upon amendments to the Workmen's Compensation Law. After a number of conferences, the two sides agreed upon a bill which contained provisions somewhat like those in the 1923 bill which organized labor had attempted to push through the General Assembly. The bill was passed by the 1925 General Assembly with practically no opposition in either house.<sup>2</sup>

The scope of the law was widened somewhat: workmen who had lost an eye, leg, hand, arm, or foot in an industrial accident and who later in a separate industrial accident lost another of these members were to be paid by the second employer only for loss of the second member;<sup>3</sup> a special fund was created out of which was to be paid the difference between the amount due the workman because of permanent total disability and the sum paid by the second employer for the loss of the second member, and compensation benefits were increased.

The Agreed Compensation Bill of 1927 also widened the scope of the law, the most notable change being the inclusion of minors injured while illegally employed. The compensation benefits were increased also. Tables XX and XXI summarize the changes in the more important provisions of the law made by each General Assembly from 1911 to 1927.

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1923), p. 174.

<sup>2</sup> *Laws of 1925*, p. 378.

<sup>3</sup> Under the law, workmen losing two such members were to be considered permanently totally disabled. The Illinois Supreme Court had ruled that the second employer should pay the workman for permanent total disability. This interpretation of the law is said to have prevented thousands of injured men from obtaining employment in Illinois (Illinois State Federation of Labor, *Weekly News Letter*, May 16, 1925).

## STATE INSURANCE FUND

Soon after the Workmen's Compensation Law went into effect, organized labor began an agitation for the creation of a state

TABLE XXI

MINIMUM AND MAXIMUM WEEKLY COMPENSATION AND DEATH BENEFITS  
PAYABLE UNDER THE ILLINOIS WORKMEN'S COMPENSATION ACT,  
1911 TO 1927

YEAR	DEATH BENEFIT		WEEKLY COMPENSATION PAYMENTS	
	Minimum	Maximum	Minimum	Maximum
1911.....	\$1,500	\$3,500	\$5.00	\$12.00
1913.....	1,500	3,500	5.00	12.00
1915.....	1,650	3,500	6.00	12.00
1917.....	{ 1,650*	3,500*	6.00§	12.00§
	{ 1,750†	3,750†	6.50	13.00
	{ 1,850‡	4,000‡	7.00¶	14.00¶
			7.50**	15.00**
1919.....	{ 1,650*	3,500*	7.00§	12.00§
	{ 1,750†	3,750†	8.00	13.00
	{ 1,850‡	4,000‡	9.00¶	14.00¶
			10.00**	15.00**
1921.....	{ 1,650*	3,750*	7.50§	14.00§
	{ 1,750†	4,000†	8.50	15.00
	{ 1,850‡	4,250‡	9.50¶	16.00¶
			10.50**	17.00**
1923.....	{ 1,650*	3,750*	7.50§	14.00§
	{ 1,750†	4,000†	8.50	15.00
	{ 1,850‡	4,250‡	9.50¶	16.00¶
			10.50**	17.00**
1925.....	{ 1,650*	3,750*	7.50§	14.00§
	{ 2,000†	4,100†	11.00	15.00
	{ 2,100‡	4,350‡	12.00¶	16.00¶
			13.00††	18.00††
1927.....			14.00‡‡	19.00‡‡
	{ 1,650*	3,750*	7.50§	14.00§
	{ 2,150†	4,200†	11.00	15.00
	{ 2,250§§	4,450§§	12.00¶	16.00¶
	{ 2,350	4,550	13.00††	18.00††
			14.00‡‡	19.00‡‡

\* One direct heir.

† Widow and one child under sixteen.

‡ Widow and two or more children under sixteen.

§ No children.

|| One child under sixteen

¶ Two children under sixteen.

\*\* Three or more children under sixteen.

†† Three children under sixteen.

‡‡ Four or more children under sixteen.

§§ Widow and two children under sixteen.

||| Widow and three or more children under sixteen.



insurance fund. In his report to the 1917 convention of the Illinois State Federation of Labor, President Walker stated that in his opinion such a fund should be created. Although a state fund having a monopoly of such business would be best, he did not believe the legislature would create such a fund at that time. He stated, however, that organized labor might procure the passage of a bill creating a competitive fund whereby an employer would not be required to insure in the state fund if he could satisfy the Industrial Commission of the soundness of the insurance company in which he proposed to insure, or of his own ability to meet whatever obligations the law might impose upon him.<sup>1</sup> Nothing, however, was accomplished.

In 1919, Representative Hicks introduced a bill to create a monopolistic state fund. It provided that the Department of Trade and Commerce should classify the several occupations with respect to degree of hazard, and fix proper premium rates for each upon the basis of total pay roll and number of employees. The bill was favorably reported to the House, but on third reading it failed to receive a constitutional majority and was lost. A bill providing for a state fund similar to that of Ohio was introduced in 1921, but it met a similar fate. In 1923, Representative K. C. Ronalds introduced a bill providing for the establishment of a competitive state fund to be managed by the Industrial Commission. The Commission was to have almost unlimited discretion in determining rates. Premiums were to be paid semiannually in advance on the basis of the estimated pay roll, and any discrepancies due to changes in the working force were to be adjusted at the end of each period. No provision was made for the building up of a catastrophe reserve, nor would the state guarantee the solvency of the fund. If at any time the premiums proved insufficient to meet the claims upon the fund, a special levy was to be made upon all policyholders. This bill passed the House, but manipulations by its enemies prevented its passage by the Senate.

The Illinois State Federation of Labor has been the most vigorous proponent of a state fund, while the liability insurance com-

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the 1917 Convention*, pp. 39 ff.

panies and the Illinois Manufacturers' Association have been the chief opponents. Organized labor points to the success Ohio has experienced with a monopolistic state fund. In 1921, for instance, labor representatives appearing before the House Committee on Insurance stated that much waste would be prevented and that a great saving to employers would result if Illinois adopted the Ohio plan. For example, the basic manual rate for structural iron workers under the Ohio state fund was \$9.05 per \$100 pay roll (less dividends which were returned to those paying premiums), while in Illinois at the same time the rate charged by liability companies was \$15.53. It was also contended that a state fund would greatly benefit injured workmen and their families because of the greater honesty and safety of such a fund. President Walker in 1923 told of an investigation by the Illinois Industrial Commission showing gross evasion of payments by private insurance companies and bankruptcies (three in number during the preceding five years) of insurance companies operating in Illinois which involved losses to injured workmen and their dependents of several hundreds of thousands of dollars. He also spoke of the bad practices occurring when physicians employed by insurance companies were called upon to determine the extent of disability of injured employees.

The representatives of the insurance companies, on the other hand, contend that the state should not compete with or drive private enterprise from the field. They attempt also to show that other states are dissatisfied with their funds and are about to abolish them. In 1921, for example, an attorney for the Building and Manufacturers' Casualty Company of Chicago, stated that the people of Ohio were opposed to the state fund and had almost succeeded in doing away with it at the previous session of the legislature, that the Washington state fund had become bankrupt and the taxpayers had had to make good the deficit, and that West Virginia was giving up its state insurance. His contentions were denied (and truthfully) by those favoring a state fund, but he still insisted that his statements were true.<sup>1</sup>

<sup>1</sup> Illinois State Federation of Labor, *Weekly News Letter*, May 14, June 18, June 25, July 2, 1921.

The movement for a state insurance fund is not so strong as it was a few years ago. In view of the bad political situation existing in Illinois, this may prove to be fortunate. If a state fund had been established and had come under the control of the politicians, the whole matter would probably have come into disrepute. It is to be hoped, however, that a monopolistic state fund will be established as soon as political conditions are favorable. The need of such a fund is patent.<sup>1</sup>

#### REHABILITATION

The purposes of compensation payments in cases of industrial accidents are to encourage accident prevention and to support workmen and their families during the period of reduced earning capacity following industrial accidents. These are very important objectives, but they alone do not constitute a well-rounded policy. Workmen who are injured should also be restored to earning power in all reasonably possible cases. This may require surgical operations, re-education, retraining, and assistance in finding employment.

Illinois passed a liberal Rehabilitation Act in 1919. This act made it the duty of the Department of Public Welfare to direct the rehabilitation of every physically handicapped person, sixteen years of age or over, residing in the state. Under the law, a "physically handicapped person" was any person who, by reason of a physical defect or deformity, whether congenital or due to accident, injury, or disease, was, or might be expected to be, incapacitated for remunerative occupation. The Department of Public Welfare was to obtain reports from all public and private hospitals and the Department of Labor concerning persons suffering from any injury or disease that might permanently impair their earning capacity. Such persons were to be visited by representatives of the Department. Upon the basis of the conditions found, the Department was to determine whether or not they were susceptible of rehabilitation. Those found to be susceptible to rehabilitation were to be acquainted with the rehabilitation facilities offered by the state and the

<sup>1</sup> It should be pointed out that many employers favor the establishment of a state fund. See Illinois State Federation of Labor, *Proceedings of the 1921 Convention*, p. 88.



benefits of entering upon remunerative work at an early date. Persons accepting the offer of the department were to be paid not exceeding \$10 a week for maintenance, and provided with treatment, schooling, etc. The establishment of a state school of rehabilitation with branches where needed was authorized.<sup>1</sup> The sum of \$10,000 was appropriated to the Department of Public Welfare to cover the expenses involved in making a survey of the rehabilitation problem in Illinois.

In 1920, Congress passed a Federal Vocational Rehabilitation Act, which provided for federal grants to states accepting its provisions; and the Illinois General Assembly in 1921, apparently forgetting about its own Rehabilitation Act and ignoring the study of the problem made by the Department of Public Welfare, passed a law accepting its provisions. The administration of this law was placed in the hands of a Board for Vocational Education, which was to co-operate with the federal board for vocational education in carrying out its provisions. The sum of \$125,000 was appropriated for the biennium ending June 30, 1923.<sup>2</sup>

The sum appropriated by the General Assembly was slightly larger than the sum allotted to Illinois under the federal act, but the combined amounts were only about 40 per cent of the amount necessary to handle the problem indicated by the survey made by the Department of Public Welfare. No provision was made for a special hospital to deal with rehabilitation cases.

The rehabilitation program in Illinois is essentially one of vocational education. No stress is placed upon physical rehabilitation. No patients are registered with the board while undergoing treatment unless an exception is made on the assurance of a physician that the person will be physically equal to a course of training. The board has practically no co-operation from other agencies in maintaining persons undergoing training. If a person is receiving compensation for industrial injury and is taken into training promptly, his living expenses can be met from the compensation

<sup>1</sup>*Laws of 1919*, p. 534.

<sup>2</sup> *Laws of 1921*, p. 11. The law was amended in some respects by *Laws of 1923*, p. 173.

payments. Persons who cannot maintain themselves while being rehabilitated and persons requiring, but unable to provide themselves with, therapeutic treatment before rehabilitation cannot avail themselves of the benefit of the act. No restrictions are placed upon the type of training or the amount of training a person may receive. If a person is disabled in such way that he cannot continue his regular occupation, he is eligible for any other training even though he could find work of another kind without training. Emphasis, however, is placed upon training for occupations not covered by the Workmen's Compensation Act, since employers and their insurance agents usually discriminate against men who have been injured. Commercial work and skilled trades that lend themselves to independent employment are stressed. The Board appears especially desirous of working with young persons and does not wish to take chances on cases in which success is improbable.

Through an arrangement with the Department of Labor, the Illinois free employment offices have been placed at the service of the Board in the placement of crippled or otherwise handicapped civilians. The free employment offices in the various cities are made the headquarters of state rehabilitation agents. Superintendents of the free employment offices are directed to hold preliminary interviews with persons needing rehabilitation, and to notify such persons when the rehabilitation agent is to be at the office.<sup>1</sup>

Although a clerk in the office of the Industrial Commission lists all compensation cases that might need rehabilitation,<sup>2</sup> the number of persons that can receive benefit from the Rehabilitation Act is limited by the service offered. Although the Federal Board for Vocational Education lists six possible services that may be offered, namely, physical reconstruction, prosthesis, provision of favorable working conditions, establishment in independent business, placement, and vocational training with pay when needed,

<sup>1</sup> Illinois Department of Labor, *Labor Bulletin*, V, No. 8 (Feb. 1926), p. 115.

<sup>2</sup> The administration of the act might well have been tied up with the actual administration of the Workmen's Compensation Act instead of a State Board for Vocational Education. See R. D. Cahn, "Civilian Vocational Rehabilitation" in *Journal of Political Economy*, XXXII, December, 1924.

the service in Illinois is limited to placement, prosthesis, and training for special vocations without maintenance during training. This, of course, greatly limits the number of persons receiving help.<sup>1</sup>

#### SUMMARY AND CONCLUSIONS

We have traced the development of the compensation movement in Illinois and the process of enacting and amending the Illinois Workmen's Compensation Act. Two questions now arise: Does the present Illinois act compare favorably with those of other

TABLE XXII

COMPARISON OF SPECIFIED COMPENSATION BENEFITS AS OF  
JULY 1, 1925, IN ILLINOIS AND NEW YORK, AND RANK  
OF ILLINOIS AMONG THE 31 STATES CONSIDERED \*

Type of Benefit	Illinois as Per Cent of New York	Rank of Illinois
Death.....	48.6	16
Permanent total disability.....	48.7	11
Major permanent partial disability...	62.9	13
Minor permanent partial disability...	95.2	4
Temporary disability.....	84.2	17
Medical and hospital care.....	93.5	14
All benefits.....	73.5	12

\* From *Bulletin 406*, United States Bureau of Labor Statistics, p. 174.

states, and does it approach standards that have been set up as desirable by competent authorities?

The first question may perhaps best be answered by citing computations that have been made by insurance companies concerning the relative cost of providing benefits required by the various state laws. Using New York as standard as of July 1, 1925, New York having higher benefits on the whole than any of the thirty-one states considered,<sup>2</sup> Table XXII gives a comparison of Illinois with this standard and its rank among the states considered.

<sup>1</sup> Much of this material on rehabilitation in Illinois is taken from a University of Chicago master's thesis on *Civilian Vocational Rehabilitation*, by Grace Gladys Taylor.

<sup>2</sup> The only important industrial states omitted from the list are Ohio and Pennsylvania, both of which have state funds, the former being of the compulsory type.



It is apparent that except for two types of benefit, Illinois falls considerably short of the New York standard, and, except for compensation for minor permanent partial disability, is far down the list of states for the different types of benefits.<sup>1</sup>

No recent figures are available concerning the proportion of wage-earners protected by the Illinois Workmen's Compensation Act, but in 1920, the percentage covered was 55.4, Illinois being twenty-seventh in the list.<sup>2</sup> The scope of the law has not been greatly extended since that time. There is no valid reason why employments not under the act should not be included. Workmen need compensation and should be compensated for injuries received in the course of employment regardless of whether the occupation is considered hazardous or non-hazardous. The cost of all industrial accidents should be considered part of the cost of production of the commodity in question. Agricultural employments are not within the scope of the act because a bill including them could not pass the General Assembly owing to opposition by the farmers of the state.

How does the Illinois act compare with standards set up by competent authorities? In answering this question, two standards may be used, namely, the minimum standard of the American Association for Labor Legislation and the ideal but reasonable standard set up by Dr. E. H. Downey.<sup>3</sup>

As to scale of compensation, several things should be considered:

a) Medical benefits. Illinois meets the standard set up by both authorities, that is to say, the employer is required to furnish all necessary medical, surgical, and hospital services and supplies.

b) Waiting period. Illinois, with a waiting period of seven days, comes within the standard of from three to seven days proposed by the Association, but does not meet Downey's three-day standard.

<sup>1</sup> These data are taken from an article by William Leslie, general manager National Council on Workmen's Compensation Insurance in International Association of Industrial Accident Boards and Commissions, *Proceedings of the 12th Annual Meeting* (1925), p. 174, published as *Bulletin 406* of the United States Bureau of Labor Statistics.

<sup>2</sup> *Monthly Labor Review*, January, 1920, p. 237.

<sup>3</sup> The former may be found in a pamphlet entitled *Standards for Workmen's Compensation Laws*, revised to January 1, 1928, and the latter in E. H. Downey, *Workmen's Compensation*, 1924.



c) Compensation for total disability. The Association recommends that workmen totally disabled should receive 66.6 per cent of wages during disability, but not more than \$25 or less than \$8 a week. In Illinois, the maximum under the sliding scale arrangement is 65 per cent of wages, but the basic rate is only 50 per cent. A sliding scale also obtains with regard to maximum and minimum weekly payments, but the minimum is fifty cents less, and the maximum for a workman with four or more children is six dollars less than the Association's proposal. The Illinois act makes a distinction between temporary total disability and permanent total disability. For the former, compensation is to be paid at the basic rate of 50 per cent of wages, but not less than \$7.50 or more than \$14 a week, until the amount paid equals the sum that would have been paid as death benefit, had death occurred. If temporary total disability lasts four weeks, compensation starts from the date of injury. For permanent total disability compensation is to be paid at the same rate as for temporary total disability until the amount paid equals the death benefit. Thereafter, 8 per cent of the amount payable as death benefit is to be paid annually throughout life, but not less than \$10 a month. The maximum possible death benefit is \$4,550, and 8 per cent of this is \$364 a year or \$7 a week. The Illinois standard thus falls considerably short of the Association's standard, and is much below Downey's standard. Downey advocates full wages for permanent total disability, and 75 per cent of wages for temporary total disability. Downey believes, furthermore, that there is no economic or ethical justification for a fixed maximum weekly amount.

d) Compensation for partial disability. The Association recommends that workmen who are only partially disabled should receive a percentage of wages proportioned to the degree of physical disability (taking into account age and occupation), and subject to readjustment only on account of changes in extent of disability, the compensation not to exceed \$25 or be less than \$8 a week. In Illinois, for injuries not included in the specific schedule, the injured workman is to receive 50 per cent of the difference between what he earned before and after the accident. Downey advocates for near-total permanent disability a life pension at from 60 to 90

per cent of wages in accordance with the actual earning capacity of the injured person. For certain enumerated specific injuries resulting in partial permanent disability, he advocates a life pension at a fixed percentage of wages, as follows: For loss or complete loss of use of hand, 50 per cent; leg at hip, 75 per cent; leg at knee, 50 per cent; foot, 40 per cent; eye, 30 per cent; hearing, one ear, 25 per cent; and hearing, both ears, 50 per cent. Impairment of a major member to the extent of 25 per cent or more should be compensated by a life pension at a rate proportionate to the degree of impairment. Inasmuch as minor permanent injuries usually cause very slight permanent disability and since a very small life pension is of little value to the workman, Downey favors payment at a specified rate for definite periods, for example, 50 per cent of wages during four years for loss of thumb; for two years for loss of index finger; for one year for loss of any other finger. For major permanent injuries to certain members, Illinois requires payment of compensation at 50 per cent of wages for fixed periods instead of for life, for example, for loss of arm, 225 weeks; foot, 135 weeks; leg, 190 weeks, and eye, 120 weeks. For loss of thumb, Illinois requires payment of 50 per cent of wages during 70 weeks; loss of index finger at same rate for 40 weeks, and for loss of other fingers at same rate for still shorter periods. The Illinois standard is thus seen to be far below Downey's standard and considerably below the Association's standard.

e) Compensation for death. Both the Association and Downey advocate moderate funeral expenses in addition to other compensation. Illinois requires funeral expenses only if there are no dependents. For a widow, the Association recommends 35 per cent of wages until death or remarriage. If there are also children under eighteen, 15 per cent should be added for each one until a maximum of 66.6 per cent is reached. If there be children but no widow, 25 per cent of wages should be paid for one child under eighteen, and 15 per cent for each additional child until a maximum of 66.6 per cent is reached. Downey proposes somewhat higher standards. He advocates that a widow (or widower), if sole dependent, receive 40 per cent of wages. If there be also children, 10 per cent of wages should be added for each child until a maximum of 75 per cent is

reached. To a child, if sole dependent, the same allowance as to a widow, with a 10 per cent increment for each additional child up to a maximum of 75 per cent for five or more children. Compensation is to be paid to a widow during widowhood and to a child until it attains the age of eighteen. Death benefits to others than widow (or widower) or children should be paid in accordance with the facts of dependence. It will be noticed that both standards require payments to widow or widower to be made until death or remarriage and fix no limits as to the total sum paid. Illinois requires payment of four times the annual earnings of the deceased person, but not less than \$1,650 or more than \$3,750. This minimum is increased to \$2,150 for one child under sixteen, to \$2,250 for two, and to \$2,350 for three or more such children. The maximum is increased to \$4,200 for one child under sixteen, to \$4,450 for two, and to \$4,550 for three or more such children. Illinois standards are not equal to either of the other standards proposed.

Commutation of periodical compensation payments is advocated for certain circumstances by the Association, but should be carefully safeguarded against abuse and should be permitted only with the approval and under the supervision of the accident board. Downey says that commutations of future instalments ought very rarely to be allowed. Under the Illinois act, the Industrial Commission is authorized to approve lump sum settlements, and does exercise this authority in a great many cases. The chairman of the Commission recently said, however, that it was the Commission's policy to discourage lump sums so far as possible. The Illinois Supreme Court has laid down rules limiting its authority to grant such settlements. In one case it said that "lump sum awards should be the exception, not the rule."<sup>1</sup> It has also held that lump sums cannot be granted merely for the purpose of enabling the beneficiary to pay an attorney fee.<sup>2</sup> The granting of lump sums is, however, a growing evil.

<sup>1</sup> *Sangamon County Mining Co. v. Industrial Commission*, 315 Ill. 532 (534) (1925).

<sup>2</sup> See address of William M. Scanlon, in *Bulletin 406*, United States Bureau of Labor Statistics, p. 191.



Procedure in cases appealed to the Industrial Commission usually requires the injured workman or his dependents to hire a lawyer to prosecute his case. If the issue is not too involved, an intelligent workman can and sometimes does handle his own case before the Commission.

But where the questions are technical and intricate, a record must be built up in accordance with the long-established rules of evidence. Here the layman is at sea without an oar, and the services of someone skilled in legal procedure, who may do the questioning and cross-questioning of witnesses and make proper objections, is absolutely essential.<sup>1</sup>

The fact that attorneys are permitted and even required to appear before the Commission in compensation cases has resulted in a thriving business for certain lawyers who specialize in this kind of work. Since most injured workmen are without funds, much of this work is done on a contingent fee basis. In Chicago, considerable ambulance chasing is done by persons who bring to a lawyer all kinds of personal injury cases, among them compensation cases, and who expect a generous share of the fee in case an award is granted.<sup>2</sup> The injured man is required to sign a contract to pay the lawyer from one-fourth to one-half of the amount recovered. The Commission, however, does not recognize these contracts as valid. If it is brought to the attention of the Commission that an excessive fee has been charged, a hearing is held and the Commission determines what would be a reasonable fee for the services actually rendered. Several lawyers have been disbarred from practicing before the Commission.<sup>3</sup> Because of the nature of the pro-

<sup>1</sup> Scanlon, *op. cit.*, p. 188.

In the case of *Inland Rubber Co. v. Industrial Commission*, 309 Ill. 43 (1923), the court laid down the rule that "in proceedings under the Workmen's Compensation Act the rules respecting the admission of evidence and the burden of proof are the same as prevail in common-law actions for personal injury. The procedure only is different."

<sup>2</sup> Serious efforts have been made within the last year to prevent ambulance-chasing lawyers from obtaining the names and addresses of injured workmen through employees of the Industrial Commission. An abuse of considerable proportions had grown up previous to this time.

<sup>3</sup> Scanlon, *op. cit.*, p. 188.



cedure followed in compensation cases and the ignorance and helplessness of many claimants for compensation, lawyers can render a real service, but their practices should be carefully regulated. The injured workman or his dependents ought, however, to receive the entire amount of compensation granted—in Illinois the benefits paid are far too small anyway. The state might well provide legal aid for persons having claims for compensation just as is the practice in some other jurisdictions for recovery of wage claims.

In conclusion we may say that while workmen's compensation in Illinois is far superior to the old employers' liability system, much improvement is still needed. The scope of the act should be extended to include all employments, rehabilitation should be carried out more fully, and benefits under the law should be increased as rapidly as possible, having due regard for the problem of interstate competition. The argument that industry cannot stand further increases should not be overworked, however, or be allowed to stand in the way of reasonable advances. Downey's ideal standard should be the final goal. The present system of agreements by the employers and the employees concerning amendments to the act should be continued, since it gives assurance of their passage by the legislature and promotes better appreciation of each party of the situation confronted by the other. A state fund should be established, and all employers should be compelled to insure their risks with it. In any event, the insurance companies should be more carefully supervised. As is the case with every other labor law in Illinois, the administration of the act should be improved and political manipulations abolished.<sup>1</sup>

<sup>1</sup> During the last year or so the administration of the Workmen's Compensation Act has improved considerably, as a result of the efforts of Mr. Scanlon, the chairman of the Industrial Commission. The promptness of handling cases has greatly improved. An experienced man has been placed in charge of the files. Efforts have been made to check up on payments made and to prevent underpayments by insurance companies and employers to claimants under the act. As a result of these efforts, insurance companies and employers have been compelled to pay many thousands of dollars which they would otherwise have unlawfully neglected or refused to pay (see the *Labor Bulletin*, April, 1928).

## CHAPTER XVI

### HEALTH INSURANCE AND OLD-AGE PENSIONS

Aside from workmen's compensation legislation, which is discussed in the previous chapter, and laws providing pensions for mothers and for certain public employees such as firemen, of which only mention will be made, social insurance in Illinois has not yet reached the point of legal enactment. We shall discuss only the movements for health insurance and old-age pensions. Compulsory insurance against unemployment has made practically no progress in Illinois, although some significant developments in voluntary insurance against unemployment are taking place in certain industries, such as the men's clothing industry of Chicago.

#### HEALTH INSURANCE

Agitation for health insurance in the United States began in 1912, soon after the passage of the British National Insurance Act of 1911. The first attempt to formulate a plan of compulsory health insurance adapted to conditions in the United States was that of the American Association for Labor Legislation in 1912. The Association was instrumental in the formation of the Social Insurance Committee, which, with the co-operation of a committee of the American Medical Association, published the first tentative draft of a health insurance bill. This bill was introduced in three states in 1915. By 1917, the movement had gained such strength that bills were introduced in twelve states. While no health insurance laws were passed, a number of states, among them Illinois, authorized the appointment of commissions to study the problem.<sup>1</sup>

In 1917, the Illinois General Assembly authorized the appointment of a Health Insurance Commission, composed of two representatives of labor, one employer of labor, one physician, one far-

<sup>1</sup> Special Report XVI, "The Health Insurance Movement in the United States," by Commons and Altmeyer, published in Illinois Health Insurance Commission, *Report* (1919), p. 625.

mer, one social economist, one social worker, and two other persons, whose duty it was to investigate sickness and accident of employees and their families (not compensated under the Illinois Workmen's Compensation Act), with reference to the adequacy of existing methods of preventing and meeting the losses caused by such sickness and injury, either by mutual or stock insurance companies, by fraternal or other mutual benefit associations, by employers and employees jointly or independently, or otherwise; all with a view to recommending ways and means for the better protection of employees from the effects of sickness and accident and the improvement of the health of employed persons and their families in Illinois. The Commission was to submit a report and recommendations to the 1919 General Assembly. The sum of \$20,000 was appropriated to carry on the investigation.<sup>1</sup>

After its appointment,<sup>2</sup> the Commission made arrangements with Professor H. A. Millis, of the University of Chicago, to act as executive secretary. After considerable preliminary study, Professor Millis drafted a thoroughgoing program of investigation only part of which, however, could be carried out by the Commission. The results of the investigation were presented in the Commission's *Report*, which is a large volume of 647 pages.

Part I of the *Report* deals with (1) the relation between sickness and poverty as established by an intensive study of all families, wage-earning and non-wage-earning, in forty-one blocks located in working-class districts in Chicago and by a number of other first-hand investigations of families on the lists of charitable and other institutions; (2) public health activities in Illinois; (3) medical, hospital, dispensary, and nursing care in Illinois; (4) various meth-

<sup>1</sup> *Laws of 1917*, p. 488. The bill was introduced at the suggestion of the Illinois Committee on Social Legislation, of which Professor James H. Tufts, of the University of Chicago, was chairman.

<sup>2</sup> The members of the Commission were William Beye, attorney, chairman; Matthew Woll, president International Photo-Engravers' Union; Mary McEnerney, of the Bindery Women's Union; Dr. Alice Hamilton, of Hull-House; William Butterworth, president Deere & Co.; Dr. E. B. Coolley, president Illinois Medical Society; Edna L. Foley, superintendent of the Visiting Nurse Association; John E. Ransom, superintendent of the Central Free Dispensary, and M. J. Wright, a farmer.



ods of voluntary health insurance in existence in Illinois; (5) findings and recommendations. Part II consists of special reports, the most important of which is the study of 12,450 members of 3,048 wage-earning families in Chicago. There are also other reports upon disability statistics of certain voluntary insurance associations; reports on insurance by commercial companies, fraternal orders, foreign benefit societies, establishment funds, and trade union benefit systems; reports on compulsory health insurance in Germany and England, and an account of the health insurance movement in the United States; and reports on dispensaries and clinics, occupational diseases, health of coal-miners, and health work in the public schools of Illinois.<sup>1</sup>

Although in the opinion of many people who have studied the report, the investigation showed a clear-cut case for compulsory health insurance, the majority of the Commission did not think its findings justified such a recommendation, but confined itself to suggesting an extension of health work along existing lines. After such an array of evidence, such a conclusion is little short of ridiculous. Two of the members of the Commission,<sup>2</sup> however, wrote a vigorous minority report in which they gave what appears to the writer to be an entirely logical conclusion from the facts disclosed by the investigation, namely, the immediate adoption of compulsory health insurance in Illinois.<sup>3</sup>

<sup>1</sup> Too much cannot be said concerning the merits of this investigation. It "sets forth the sickness problem in a large American state as no previous enquiry has ever done." "It can be inferred . . . how very exhaustively the subject was studied, and how extraordinarily valuable the work of the Illinois Commission is." "It is the best recent work in the United States on the subject of sickness and poverty. . . . This work was ably and impartially directed, adequately financed, and, unlike the three best American surveys of the past, covered twelve months—from July, 1917, to July, 1918—when conditions of health and employment were good." Gerald Morgan, *Public Relief of Sickness* (1922), pp. 2, 187-88.

<sup>2</sup> Dr. Alice Hamilton and John E. Ransom.

<sup>3</sup> Illinois Health Insurance Commission, *Report* (1919), p. 168. It should be noted that while Professor Millis conducted the investigation for the Commission, he took no part whatever in the determination or formulation of its conclusions and recommendations. Matthew Woll, a member of the Commission, also did not participate in determining or formulating the conclusions and recommendations.



After the unfavorable majority report and the highly organized "drive" against compulsory health insurance conducted by the commercial insurance companies and the medical profession, it is not surprising that the movement in Illinois quickly died out. Although the health-insurance movement has practically disappeared in Illinois, at least for the time being, the wealth of knowledge contained in the *Report* of the Illinois Health Insurance Commission as well as in some other reports, will form a basis for action when the present opposition subsides.

#### OLD-AGE PENSIONS

The movement for old-age pensions, unlike the movement for health insurance, is a live issue at present. As early as 1913, a resolution (H.J.R. No. 20) was introduced in the House by Representative Medill McCormick providing for a commission of nine members to inquire into the social and economic aspects of old-age pensions, payable wholly or in part out of the state treasury. This resolution was adopted by the House, but the Senate committee to which it was referred loaded it down with amendments including within the scope of the investigation the subject of minimum wage and hours of employment for women and the condition of the unemployed. The appropriation of \$25,000 was reduced to \$10,000. The resolution was tabled. On the following day another resolution (S.J.R. No. 55) was introduced providing for a commission to investigate the condition of the aged poor and the social and industrial conditions relating to poverty and the unemployed. This resolution was also tabled.

Since 1913, the movement has gained considerable strength. Organized labor, especially the United Mine Workers, has been very active in supporting the movement. About five years ago the Fraternal Order of Eagles indorsed the movement and since that time has carried on an active campaign not only in Illinois, but in other states as well, for the enactment of a uniform bill prepared by its attorneys.<sup>1</sup> Bills have been introduced at each session

<sup>1</sup> Illinois State Federation of Labor, *Proceedings of the Annual Convention* (1923), p. 194.

of the Illinois General Assembly and on at least one occasion (1919) favorable action was taken by one House. In 1927, various organizations opposed the bill. S. S. Tanner, representing the Modern Woodmen of America, declared that the proposed measure would require an expenditure of \$40,000,000 a year, whereas the levy of a one-half mill tax would provide only \$2,100,000.<sup>1</sup> Fred W. Potter, insurance commissioner under Governors Dunne and Lowden, said the bill would be unconstitutional. Douglas Sutherland, secretary of the Chicago Civic League, stated that in foreign countries old-age pensions had increased indolence and pauperism.<sup>2</sup> The Illinois Chamber of Commerce also opposed the bill.<sup>3</sup> One stock argument against such legislation is the great cost involved in an old-age pension system. As pointed out by the Illinois State Federation of Labor, however, the state has choice only between pensions and the poor-house system. "It is well known that the cost of maintaining an aged person in a public institution is far in excess of the amount it is proposed to pay such person in the form of a pension."<sup>4</sup>

<sup>1</sup> The 1927 bill proposed to set up a pension fund by the levy of a one-half mill tax, the fund to be administered by the Industrial Commission. Citizens of the United States over seventy years of age and resident in Illinois for twenty years might receive a pension of \$260 a year each.

<sup>2</sup> *Chicago Tribune*, March 23, 1927.

<sup>3</sup> *Ibid.*, April 19, 1927.

<sup>4</sup> Illinois State Federation of Labor, *Weekly News Letter*, March 17, 1923.

## CHAPTER XVII

### THE ILLINOIS BUREAU OF LABOR STATISTICS

One of the chief demands of the labor movement during the seventies was the creation of a Bureau of Labor Statistics.<sup>1</sup> Massachusetts, in 1869, established a bureau of this kind, but the movement in Illinois did not come to fruition until ten years later. In 1877, a bill passed the House but was tabled by the Senate. In 1879, however, the combined demand by trade unionists, Knights of Labor, Socialists, and certain employers who wanted trustworthy statistics on business affairs succeeded in securing the enactment of a law.<sup>2</sup>

#### PROVISIONS OF THE LAW OF 1879

The law was very brief and its essential provisions were copied from the Massachusetts law. It was made the duty of the governor, with the advice and consent of the Senate, to appoint a Board of Commissioners of Labor, to consist of five members, three of whom were to be manual laborers, the others to be manufacturers or employers of labor "in some productive industry." The commissioners were to appoint some outside person to serve as secretary of the Bureau. The duties of the Board were to collect, assort, systematize and present in biennial report to the General Assembly, statistical details relating to all departments of labor in the State, especially in its relations to the commercial, industrial, social, educational and sanitary conditions of the laboring classes, and to the permanent prosperity of the mechanical, manufacturing and productive industries of the State.<sup>3</sup>

<sup>1</sup> On this subject see Illinois General Assembly, House, *Report of the Special Committee on Labor* (1879).

<sup>2</sup> Powderly, *Thirty Years of Labor* (1890), p. 309; *Bulletin of the U.S. Bureau of Labor*, September, 1904, p. 995; Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), p. 9.

<sup>3</sup> *Laws of 1879*, p. 61.



A much more elaborate and comprehensive bill was originally drawn, but it was found to be impossible to secure the enactment of any but the simplest form of law. As a result, the Bureau was handicapped by want of proper powers and authority. It could not call upon county, municipal, or other public officials for assistance or special information, and had no access to employers' records, except by courtesy. It had no power to summon witnesses or to administer oaths. Consequently, it was wholly dependent upon such voluntary information as could be obtained through personal effort and questionnaires. From the beginning, there was a general disinclination among coal operators, for instance, to furnish information concerning miners' earnings, and the Bureau was unable to furnish reliable data on this subject.<sup>1</sup> Insufficient funds were provided for carrying on the work of the Bureau; for the first biennium, only \$3,000 a year was appropriated, and from this sum were to be paid the salaries of the commissioners and the secretary as well as all the other expenses.<sup>2</sup> The Board of Commissioners of Labor relied "almost absolutely" upon the secretary to carry on the affairs of the Bureau. Their service was entirely perfunctory.<sup>3</sup>

<sup>1</sup> Not until 1899 was this difficulty removed. The revised mining code of 1899 made it the duty of every coal operator and every employer of labor in the state to afford to the state commissioners of labor, or their representatives, every facility for procuring statistics of wages and conditions of their employees for the purpose of compiling and publishing statistics of labor and of social and industrial conditions within the state as required by law. Any person who hindered or obstructed the investigation of the agents of the commissioners, or who neglected or refused, for a period of ten days, to furnish the information called for by the schedules of the commissioners as provided above, was to be adjudged guilty of a misdemeanor and be subjected to a fine of \$100 (*Laws of 1899*, p. 301, sec. 12). In 1908, this provision was made a part of the law creating the Bureau of Labor Statistics (*Laws of Special Session, 1907-8*, p. 80). In 1909, the Bureau was charged with the duty of collecting information concerning the manufacturing and commerce of the state, as well as concerning labor conditions (*Laws of 1909*, p. 199).

<sup>2</sup> Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), pp. 9, 225; Chiefs and Commissioners of State Bureaus of Statistics of Labor, *Proceedings of the First National Convention* (1883), p. 30, statement of Mr. John S. Lord, secretary of the Illinois Bureau.

<sup>3</sup> Statement of Mr. David Ross, secretary of the Bureau, in National Associa-

The Illinois State Federation of Labor in 1887 attempted to secure the enactment of a law giving the Bureau power to inspect contracts between workmen and employers and to enter places of business for purposes of examination, and permitting it to appoint a canvasser for each congressional district whose duty should be the collection of statistical information.<sup>1</sup> The State Federation was unsuccessful in this attempt. It should be noted, however, that an increase in appropriations, not an extension of powers under the law, was needed to enable the Bureau to place canvassers in different parts of the state.

#### ADMINISTRATIVE WORK OF THE BUREAU

Properly speaking, bureaus of labor statistics should not be required to enforce labor laws, since the function of gathering statistics from employers cannot be adequately carried out by an agency which comes into conflict with them on other matters. The gathering of many types of statistical data on labor questions requires co-operation by the employer. But as the matter worked out in Illinois, the Bureau of Labor Statistics was given administrative duties, probably for no other reason than the fact that it was already in existence and was dealing with the labor question from another angle.

#### MINING

After some years of unsatisfactory experience with mine inspection as carried on by county surveyors, as ex officio inspectors of mines, and by county mine inspectors, the General Assembly in 1883 provided for a system of state inspection. The Bureau of Labor Statistics was to appoint a Board of Examiners which was to recommend to the governor persons properly qualified for the office of state mine inspector.<sup>2</sup> Power to remove state mine inspec-

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tion of Officials of Bureaus of Labor Statistics in the United States, *Proceedings of the Sixteenth Annual Convention* (1900), p. 55.

<sup>1</sup> Staley, *History of the Illinois State Federation of Labor; Knights of Labor*, Jan. 29, 1887.

<sup>2</sup> Power to appoint this Board resided in the Bureau until 1907, when it was given to the governor of the state. The 1907 law also removed from the Bureau the power to call special meetings of the State Mining Board.

tors under certain conditions was given to the Bureau. The Bureau was to receive the annual reports of the inspectors, and consolidate the information thus received in an annual coal report. Supplies were furnished to the inspectors by the secretary of state upon requisition of the secretary of the Bureau. A law passed in 1899 authorized the commissioners of labor to redistrict the state whenever necessary for purposes of mine inspection. The revision of the mining law in 1911 transferred to the State Mining Board all the powers and duties previously vested in the Bureau under the mining laws, and the State Mining Board thenceforth received the inspectors' and coal operators' reports, and published the *Annual Coal Report*.<sup>1</sup>

#### PUBLIC AND PRIVATE EMPLOYMENT AGENCIES

The 1899 act dealing with free public employment offices provided that the state commissioners of labor should make recommendations to the governor concerning the appointment or removal of officials and employees of these offices. Similar provisions, except for removal of superintendents, were included in the 1903 act. Weekly and annual reports of operations under the law were to be sent to the Bureau, and the Bureau might also require other statistical and sociological data to be furnished. Under the act of 1903, the Bureau of Labor Statistics was charged with the licensing of private agencies and the enforcement of regulations governing their operations. Similar duties were imposed by the private employment agency act of 1909.

#### WORKMEN'S COMPENSATION ACT AND ACCIDENT REPORTS

Under the first Workmen's Compensation Act, passed in 1911, the Bureau of Labor Statistics was to receive notices of election not to accept the provisions of the law. Copies of awards made by

<sup>1</sup> The changes made in 1911 were the result of recommendations made by the Mining Investigation Commission. The Commission pointed out that while the expenses of the State Mining Board would be greater under the 1911 law than under the existing laws, the expenses of other bureaus or departments would be decreased by reason of duties shifted from them to the State Mining Board. The Bureau of Labor Statistics was the bureau most affected. See Illinois Mining Investigation Commission, *Report* (1911), p. 4.



arbitrators were to be filed with the Bureau, and employers under the act were required to send to the Bureau reports of accidents for which compensation had been paid. Under the revised law of 1913, however, the Bureau had no duties to perform. The general subject of accident reporting will be discussed in the chapter on "Administration of the Labor Law."

#### REPORTS OF THE BUREAU OF LABOR STATISTICS

The biennial reports of the Bureau have dealt with a great variety of subjects, all of them, however, related in some way to the condition of the working classes. Some of the reports, especially the earlier ones, are a distinct contribution to knowledge. All of this was accomplished in spite of the Bureau's lack of authority to compel persons to give information. In 1879, when it first began to gather data, it sent letters to all the members of the General Assembly and to all county and city clerks requesting them to send in the names and addresses of a few residents in their respective townships who were working for wages or who were employers of labor. In this way the Bureau secured the names of several thousand workingmen and employers, to whom questionnaires were sent regarding wages, hours of work, family conditions, cost of living, manner of living, general changes desired by the workmen, etc. The first report was issued largely on the basis of replies received.<sup>1</sup> Other reports have dealt with the following subjects: growth of manufacturing; convict labor; the eight-hour movement; the fining system; labor laws elsewhere; trade union growth; strikes and lockouts; statistics of wages, rents, and the cost of living; foreclosures, judgments, and land values; mortgage indebtedness; working women in Chicago; women employed in department stores; women employed in factories; child labor; the sweating system; building and loan associations; Illinois school system; public indebtedness of Illinois; taxation in Illinois; franchises; private and municipal ownership of public works; Chicago gas companies; earnings of coal-miners; statistics of coal production; population statistics; lead-mining; public employment agencies; kindergartens

<sup>1</sup> Illinois Bureau of Labor Statistics, *First Biennial Report* (1881), p. 10 ff.



and manual training; industrial accidents, and Illinois labor laws. Some of the reports have been of value in helping form public opinion by the publication of authoritative treatises and statistical material. In several instances, important legislation has been enacted partly through efforts of the Bureau. Notable instances of this are the law of 1883 which established the system of state mine inspection; that of 1893 which established a factory inspection service and attempted to control the sweating system; that of 1899 which established the Illinois free employment offices and attempted to regulate private employment agencies, and the constitutional amendment of 1886 which prohibited contract convict labor in Illinois.

Under the statute of 1907, suggested by the Industrial Insurance Commission of 1906 and requiring employers to send accident reports to the Bureau, an annual report of accidents was published.

For a number of years following its creation in 1879, the Bureau of Labor Statistics formed the center of state activity on labor matters. Beginning with 1893, however, it declined in relative importance, partly as the result of transfer of powers and duties to other state administrative bodies, but more especially as a result of the establishment of these other bodies. Instead of being the sole center of activity, it became one of several centers. The Bureau was abolished in 1917, and its work was taken over by the Illinois Department of Labor. The Bureau of Industrial Accident and Labor Research, which is discussed in the chapter on "Unemployment," may be considered its successor.

## CHAPTER XVIII

### ADMINISTRATION OF THE LABOR LAW

The purpose of this chapter is to trace the development of the administrative machinery of Illinois insofar as it applies to labor legislation. In large part we shall merely bring together matters which have been discussed in other chapters, and shall omit a great mass of detail which is not germane to our present purpose.

The history of administration of the labor law of Illinois may conveniently be divided into two parts, the first of which, extending until the passage of the Civil Administrative Code in 1917, is characterized by decentralization of authority; the second, extending from 1917 to the present day, is characterized by centralization of authority. From the beginning, some branches of Illinois labor legislation have had no administrative machinery, but have relied upon the prosecution of violations by those whose interests were directly affected. This method of enforcement was relied upon to a much greater degree during the early period of development than in the later period, and is probably the best way to deal with certain features of the law, such as the enforcement of mechanics' liens. By far the greater part of labor legislation, however, must have administrative officers clothed with adequate powers if it is to be effective even in the slightest degree. The workingman is seldom in a position to obtain redress for wrongs suffered at the hands of the employer or to require the employer to do certain affirmative acts, such as install safety appliances, either by recourse to the courts or by the use of his right to seek another place of employment. In consequence, the state must provide a force of special police to make inspections under the law and to compel employers who fall short of the standards set by law to observe those standards.

## PERIOD BEFORE 1917

In this period, separate administrative machinery was usually provided for each new type of labor legislation. By 1917, when the Civil Administrative Code was enacted into law, this method had resulted in great complexity: there were a number of independent administrative bodies dealing with various aspects of the law, and in some cases their duties overlapped. This was a disadvantage from the standpoint of good administration and also a disadvantage from the standpoint of the employer who had to make reports to, and have dealings with, several independent state and local officers. We shall now mention very briefly the functions performed by these various bodies.

In 1883, the Bureau of Labor Statistics, created four years previously, was given administrative duties with regard to mine inspection. After a series of changes, these duties were given over in their entirety to the State Mining Board in 1911. Under the acts of 1899 and 1903, the Bureau was given duties to perform in connection with the free public employment offices and the inspection of private employment agencies. An act passed in 1915 created a General Advisory Board which was to advise and cooperate with the Bureau in the management of the free public offices. From 1911 to 1913, the Bureau was in charge of administrative duties connected with the Workmen's Compensation Act. An Industrial Board, later the Industrial Commission, took over this function in 1913.

The mining laws of the state have been administered by several different bodies. At first, inspection was to be performed by the county surveyors, then county inspectors were provided for, and in 1883 state inspectors as well. The county surveyors and county inspectors were to make annual reports to the governor, but the state inspectors, from 1883 to 1911, made reports to the Bureau of Labor Statistics, which also had other duties to perform in connection with the mining law. The State Mining Board was a continuation of the Board of Examiners created in 1883 for the purpose of examining persons wishing to become state mine inspectors. It was later given the duty of examining applicants for

certificates as hoisting engineers, mine managers, and mine examiners. In 1911, it was removed from control by the Bureau of Labor Statistics and was placed in charge of administration of the general mining law. The Miners' Examining Board was an independent body created under the law of 1908 for the purpose of examining and certifying persons who wished to engage in the occupation of coal-mining in Illinois. A Mine Rescue Commission was created by the General Assembly in 1910, and had charge of the mine fire-fighting and rescue stations. The trustees of the University of Illinois were given responsibility for administering the miners' and mechanics' institutes created under the laws of 1909-10. The Mining Investigation Commission, an independent temporary body which has been reauthorized by every succeeding General Assembly save one, was created in 1909.

Factory inspection in Illinois dates from the year 1893, when the General Assembly passed an act which endeavored to regulate the sweating system and the employment of women and children. A Department of Factory Inspection was created in 1907. In 1917, the factory inspectors were in charge of enforcing ten different laws. Several of these acts vested authority and imposed duties upon other officials as well as the factory inspectors. Under the Child Labor Law of 1903, the duty of issuing age and school certificates was vested in the school authorities. The division of powers between the factory inspectors and the health authorities under the Sweatshop Act of 1893 made for inefficient administration. There was also some connection between the department of factory inspection and the State Board of Health under the Occupational Disease Act of 1911. Monthly medical examinations of employees in certain enumerated industries were required and reports were to be sent to the State Board of Health. A copy of the report was to be sent by the State Board of Health to the State Department of Factory Inspection. It was made the duty of the state factory inspector, when notified of the existence of any occupational disease by the State Board of Health, to order compliance with the Occupational Disease Act. Under the Blower Law of 1897, all sheriffs, constables, and state's attorneys were clothed with the same power



as were the factory inspectors. The law providing for inspection of structural work conferred the same powers upon both local authorities and the factory inspectors. Under the structural law and the Blower Law, state and local authorities worked independently of each other. In the case of the Health, Safety, and Comfort Act of 1909, however, state factory inspectors were relieved of the duty of making inspections of establishments which had already been inspected by local authorities under ordinances setting as high standards as the state law. The Fire Escape Law of 1899 was administered by local authorities.

Under a law passed in 1903, the inspection of railroad equipment was entrusted to an inspector under the supervision of the railroad and warehouse commissioners. The number of laws to be enforced and the number of inspectors were later increased. The State Public Utilities Commission also had powers in connection with the health and safety of railroad employees.

The State Food Commission was to regulate sanitary conditions in bakeries, confectionaries, etc.

The law passed in 1895 providing for the arbitration and mediation of industrial disputes created a State Board of Arbitration to administer its provisions.

The matter of accident reporting has been very complex in Illinois. The first mining law, passed in 1872, provided that whenever loss of life or serious personal injury occurred by reason of any explosion or of any accident whatever in or about any coal mine, the person in charge of the mine was required to give notice thereof to the county mine inspector, and, if any person were killed, to the coroner of the county also. The law of 1877 required the operator to report to the mine inspector the facts concerning accidents. In 1883, when a system of district state inspection was established, reports were to be made to the district inspectors. In addition to these duties, the act of 1899 required the operator to record, upon uniform blanks furnished by the inspector and for the information of the inspector, the facts concerning all injuries sustained by any of his employees in pursuit of their regular occupations. The mining code did not release any mine operator from

making reports of accidents to other state agencies. When the Workmen's Compensation Act was passed, however, reports sent to the Industrial Board by mine operators who had elected to come under the law, relieved such operators from making reports to the state mine inspector. Operators who were under the compensation law, however, were still required to report to the state mine inspector minor accidents not subject to compensation.

A law passed in 1907<sup>1</sup> required all employers to report to the Bureau of Labor Statistics every fatal accident and every injury causing a loss of thirty or more days' time to an employee. The Bureau was to classify all such accidents by trades or kinds of employment, and publish the same yearly. When the Health, Safety, and Comfort Act of 1909 went into effect, the state factory inspector was to receive accident reports from employers in "all factories, mercantile establishments, mills and workshops in this State." Two classes of accidents were to be reported: (1) "all accidents or injuries resulting in death"; (2) "all accidents or injuries occurring during the previous calendar month which entailed a loss to the person injured of fifteen consecutive days' time or more." Employers making reports under this act were not required to make reports to any other state officer, board, or commission. The Workmen's Compensation Act of 1911 required those employers, who had elected to come under the act, to send reports to the Bureau of Labor Statistics, and relieved them from reporting the same accidents to any other state officer. The revised compensation act of 1913 authorized the Industrial Board to receive accident reports under the same conditions. The reports required by the act of 1913 to be sent to this board by employers were as follows: (1) an immediate report of all fatal accidental injuries arising out of or in the course of employment; (2) a report between the fifteenth and twenty-fifth of each month of all accidental injuries for which compensation had been paid under the act, that is, those entailing a loss of more than one week's time; (3) in case the injury resulted in permanent disability, a further report as soon as it was deter-

<sup>1</sup> *Laws of 1907*, p. 308. The enactment of this law was urged by the Industrial Insurance Commission of 1906. See chapter on "Workmen's Compensation," p. 439.

mined that permanent disability would result. Upon a technical point concerning class 2, the attorney-general ruled that all establishments accepting the provisions of the Workmen's Compensation Act of 1911 were relieved from making reports to the state factory inspector.<sup>1</sup> The principle of this ruling would also apply to the 1913 act. The state factory inspector was therefore no longer entitled to receive reports of any accident occurring in any factory, mercantile establishment, mill, or workshop which had come under the Workmen's Compensation Law. Reports to the Bureau of Labor Statistics under the 1907 act were of course affected by the provisions of both the Health, Safety, and Comfort Act of 1909 and the Workmen's Compensation Act of 1913. The Bureau was to receive reports only from persons not under either of these acts.

Under the law of June 30, 1913, the State Public Utilities Commission was to receive reports of accidents from every public utility in Illinois.<sup>2</sup> Two classes of accidents were to be reported: (1) "every accident occurring or that may occur to or on its plant, equipment or other property of such a nature as to endanger the safety, health or property of any person"; (2) accidents which occasioned "the loss of life or limb to any person." This act was approved two days later than the Workmen's Compensation Act of 1913, and contained no provision exempting public utilities from making accident reports to other state agencies. Public utilities under the Workmen's Compensation Act, or under the Health, Safety, and Comfort Act, were therefore required to send reports to the Industrial Board or to the state factory inspector, as the case might be, in addition to reports to the Public Utilities Commission. If under neither of these acts, they were required to send reports to the Bureau of Labor Statistics under the act of 1907, in addition to reports to the Public Utilities Commission. It should be noted that in 1917 when the Workmen's Compensation Act became compulsory for certain classes of industries, this complexity of reports was simplified, since these industries were required to send reports only to the Industrial Commission.

<sup>1</sup> Illinois Attorney General, *Report* (1912), p. 1089.

<sup>2</sup> *Laws of 1913*, p. 459.



One thing further should be brought out in connection with accident reporting. In addition to the fact that reports were to be sent to various state agencies under a complex legal situation, the reports required were not identical and did not cover the same classes of injuries. As will be seen from the foregoing discussion, reports under the 1907 Accident Reporting Statute, the Health Safety, and Comfort Act of 1909, the Mining Code, the Public Utilities Reporting Act of 1913, and the Workmen's Compensation Act covered different classes of accidents. The information requested, when specified in the various laws, was not uniform.

#### PERIOD SINCE 1917

This complicated and unco-ordinated system of administration was not confined to labor legislation, but obtained in all departments of the state government. A realization of the situation finally dawned upon the legislature, and in 1913 a Joint Legislative Committee was appointed and given full power and authority to investigate the administrative system of the state with a view to securing a

more perfect system of accounting, combining and centralizing the duties of the various departments, abolishing such as are useless and securing for the State of Illinois such reorganization that [sic] will promote greater efficiency and greater economy in her various branches of government.<sup>1</sup>

Under this act, Professor W. F. Dodd, of the University of Illinois, made an investigation and report on the administration of labor legislation in Illinois.<sup>2</sup> Upon recommendation by the Joint Committee, a bill to revise and consolidate the labor laws and to create a Department of Labor was introduced into the 1915 General Assembly. This bill, which was modeled after the New York law, provided for a Department of Labor to exercise general administration of the law under a commissioner of labor, who, with two associates, was to constitute an Industrial Commission, which

<sup>1</sup> *Laws of 1913*, p. 622.

<sup>2</sup> Professor Dodd's report was used rather extensively by the writer in the part of this chapter dealing with the administrative machinery prior to 1914 and the reporting of accidents.



was to exercise discretionary and quasi-judicial functions, administer the Workmen's Compensation Act, arbitrate labor disputes, and grant licenses to employment agencies. It was also given power additional to that provided for under the Occupational Disease Law and the laws regulating the employment of women and children.

This bill was successfully opposed by organized labor in Illinois on the ground that the Industrial Commission was given powers which were so great as to be "a form of compulsory arbitration." The *Weekly News Letter* stated that the bill was similar to the "vicious law" recently enacted in New York, and that President Gompers of the American Federation of Labor had felt so strongly against the New York law that he resigned his membership in the American Association for Labor Legislation because that association had fostered its enactment.<sup>1</sup>

In 1917, however, after the Efficiency and Economy Commission had worked two years longer, a law was passed which revised the whole administrative machinery of the state.<sup>2</sup> Most of the administrative work connected with labor legislation centered in two departments, the Department of Labor and the Department of Mines and Minerals. The Department of Labor, under the direction of a director of labor, was given power to exercise the rights, powers, and duties vested by law in the commissioners of labor, the secretary of the Bureau of Labor Statistics, the superintendents and employees of the free employment offices, the general and local advisory boards of the free employment offices, the inspectors of private employment agencies, the Factory Inspection Department, the State Board of Arbitration and Conciliation, and the Industrial Board. In addition, it was to foster, promote, and develop the welfare of the wage earners; improve working conditions; collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in relation to commercial, industrial, social, educational, and sanitary conditions, and to the permanent prosperity of the manufacturing and productive in-

<sup>1</sup> Illinois State Federation of Labor, *Weekly News Letter*, June 26, 1915.

<sup>2</sup> *Laws of 1917*, p. 4.

dustries of the state; perform the same functions with regard to the manufacturing industries and commerce of the state; advance opportunities for profitable employment; acquire and diffuse useful information on subjects connected with labor "in the most general and comprehensive sense of that word"; acquire and diffuse among the people useful information concerning the means of promoting the material, social, intellectual, and moral "prosperity" of laboring men and women; acquire information and report upon the general condition, so far as production is concerned, of the leading industries of the state; acquire and diffuse information as to the conditions of employment, and such other facts as might be deemed of value to the industrial interests of the state, and acquire and diffuse information in relation to the prevention of accidents, occupational diseases, "and other related subjects" (sec. 43). The Industrial Commission, created as part of the Department of Labor, was to administer the Workmen's Compensation Act and the Act providing for the mediation and arbitration of industrial disputes. In performing these functions, however, the Industrial Commission was to act in its own name, without any direction, supervision, or control by the director of labor (sec. 44).

The Department of Mines and Minerals, under the direction of a director of mines and minerals, was to exercise the rights, powers, and duties vested by law in the State Mining Board, the state mine inspectors, the Miners' Examining Commission, and the Mine Fire-Fighting and Rescue Station Commission. It was also to acquire and diffuse information concerning the nature, causes, and prevention of mine accidents, and the improvement of methods, conditions, and equipment of mines, with special reference to health, safety, and conservation of mineral resources; to make inquiries into the economic conditions affecting the mining, quarrying, metallurgical, clay, oil, and other mineral industries of the state; and to promote the technical efficiency of all persons working in or about the mines of the state, and to assist them better to overcome the increasing difficulties of mining, and for that purpose to provide bulletins, traveling libraries, lectures, correspondence work, classes for systematic instruction, or meetings for the

reading and discussion of papers, and, with this in view, to co-operate with the University of Illinois (sec. 45). The Mining Board, as part of the Department of Mines and Minerals, was given the powers formerly vested in the State Mining Board (sec. 46). The Miners' Examining Board occupied a place in the Department of Mines and Minerals similar to that of the Industrial Commission in the Department of Labor. It was to administer the act providing for the examination of miners in its own name and without any direction, supervision, or control by the director of mines and minerals or by the Mining Board (sec. 48).

The Department of Trade and Commerce was to exercise the rights, powers, and duties vested by law in the inspectors of automatic couplers, power brakes, and grab irons or handholds on railroad locomotives, tenders, cars, and similar vehicles (sec. 56). The Department of Registration and Education was to exercise the rights, powers, and duties vested by law in the Board of Examiners of Horseshoers and the State Board of Barber Examiners (sec. 58).

The Department of Labor was to administer the Rehabilitation Law of 1919; and in 1925, after the General Assembly appropriated funds for a statistical staff, the Bureau of Industrial Accident and Labor Research was formed within that Department. The inspection of metal mines under the act of 1921 was placed in the hands of the Department of Mines and Minerals.

This constitutes the administrative machinery as it exists today. With a few exceptions, this organization of the agencies enforcing labor legislation is satisfactory, and has possibilities of being effective. The anomalous position of the Industrial Commission within the Department of Labor should be rectified. It was a "grievous error" not to have given the Department of Labor authority over the Industrial Commission, since the present arrangement prevents the factory inspectors from having access to accident reports.<sup>1</sup> In this connection, we may mention the fact that Illinois has not provided for two of the most elementary requirements of thorough accident prevention, namely, (1) an ac-

<sup>1</sup> See R. D. Cahn, in *Monthly Labor Review*, March, 1925, p. 4.

curate industrial census of the state, so that inspectors may know where industrial establishments are located, and (2) the requirement that reports of all accidents be sent to officials who are in a position to make use of them.<sup>1</sup> Perhaps the greatest needs, however, so far as enforcement of labor legislation in Illinois is concerned, are adequate appropriations for enforcing the law so that more and better inspectors may be secured, and the absolute divorcement of the administrative machinery from politics.

<sup>1</sup> In this connection, see *Bulletin 248*, United States Bureau of Labor Statistics, p. 38, for a statement by Barney Cohen, former director of labor in Illinois.



## CHAPTER XIX

### SUMMARY AND CONCLUSIONS

Our discussion of Illinois labor legislation has at many points shown the interaction of various favorable and unfavorable forces and agencies which have molded the labor code into its present form. Although industrial development in general may be considered the underlying cause of labor legislation, certain specific forces and agencies may be pointed out. Among the favorable forces and agencies are the following: (1) The recent growth of a welfare philosophy which has been unwilling to permit bad conditions to continue. (2) Development of labor legislation in other states and countries, which has stimulated progress in Illinois. (3) Growth of trade union organization and power. Most Illinois labor laws have been enacted as a result of persistent demands by organized labor. The Illinois State Federation of Labor, the Chicago Federation of Labor, and the United Mine Workers have been particularly active in securing favorable legislation. (4) Partly because of union strength and partly because of the willingness of certain liberal-minded employers who were struck by the need for better labor laws, two important series of laws have been enacted after conferences between the two sides. The entire development of workmen's compensation legislation and of the mining code since 1909 has resulted from these conferences. The importance of this co-operation cannot be overestimated. When both sides agree upon a bill, the legislature usually passes it without question; whereas if each side is fighting the other, they exhaust their energies in the struggle and nothing is accomplished—not only is no legislation enacted but in addition there develops an intensification of class hatred. Furthermore, agreement upon bills to be supported in the legislature appears to be the best guaranty of proper observance of the law. (5) Especially important in the development of the mining code is the effect of certain great mining disasters. The establishment of a system of state mine inspection

was a result of a disaster at Braidwood in 1883. Of still greater importance was the effect of the Cherry mine disaster of 1909. Not only was there a very extensive development of mining legislation following this disaster, but interest in protective legislation in general and in an adequate method of compensating workmen and their families for industrial accidents was given tremendous impetus.

Forces or agencies which have hindered the development of labor legislation are: (1) Opposition by employers, especially by the Illinois Manufacturers' Association and the less stable organization known as the Associated Employers of Illinois. It should be remembered, however, that the employers have co-operated in the development of the Workmen's Compensation Law and of the Mining Code since 1909. (2) Failure of competing states to raise their standards. (3) The attitude of the courts. The courts, especially prior to 1910, formed the graveyard for many an act designed to protect or to advance the interests of the worker. They retained an individualistic philosophy long after conditions ceased to warrant it. Assumed first principles of justice were not adjusted to fit the facts of life, and precedent was blindly followed. In the early years, however, many acts were passed which were not only in advance of the philosophy of the courts, but were also in advance of the popular thought of the time. The fact that industrial development occurred rather late and was concentrated in Chicago, the one large city of the state, meant that the greater part of the state's population had no adequate conception of industrial life. The farmers and business men were of course particularly individualistic. The courts were not out of line with the thought of these dominant groups. In some instances when acts for the benefit of miners were declared unconstitutional, the miner's union was able to compel the operators to grant conditions as advantageous as those the courts refused to countenance, but this situation did not obtain elsewhere.<sup>1</sup> A change occurred in the attitude of the Supreme Court about 1910, when the constitutionality of the women's

<sup>1</sup> After the Supreme Court had declared a series of hard-won acts unconstitutional in the late eighties and early nineties, organized labor secured the adoption of a House Joint Resolution in 1893 which provided that the following amendment to the Illinois constitution be submitted to a referendum vote of the people: "*Resolved,*

ten-hour law was upheld. It cannot be said that the court changed its philosophy, but in this case it faced squarely the actual facts of industrial life and retreated from its previous policy of ignoring them.

From the time the first proposal for labor legislation came before the General Assembly, that body has felt the impact of all of these favorable and unfavorable forces. What it has done has faithfully mirrored the relative strength of these forces. At times when the demand for a given law was very great, real, honest, straightforward legislation was enacted; but for the most part, legislative sessions have formed a dull succession of attacks and counterattacks in which those desiring a continuance of the status quo gained the victory. The General Assembly seldom acts of its own initiative.<sup>1</sup>

As the result, some phases of the law have been rather fully worked out, while others have been relatively neglected or entirely

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That the General Assembly shall have power, and it shall be its duty, to enact and provide for the enforcement of all laws that it shall deem necessary to regulate and control contracts, conditions and relations existing or arising from time to time between corporations and their employees" (*House Journal*, 1893, p. 1064). The affirmative vote on this proposal was 153,393, and the negative vote 59,558, but those in favor were not a majority of the votes cast at the election. The proposed amendment was therefore lost (Illinois Legislative Reference Bureau, *Constitutional Convention Bulletins*, No. 14 [1920], p. 1134). One writer says that it was defeated "partly because of public indifference and partly because the legislative disposition to intermeddle with corporate affairs had hitherto redounded to the advantage of certain unscrupulous legislators more than to anyone else concerned" (see Waldo R. Browne, *Altgeld of Illinois*, p. 198).

<sup>1</sup> The General Assembly should not, however, be too severely censured for its do-nothing attitude, for it is not entirely responsible for its own condition. In the words of Professor Henry Schofield, of the Northwestern University law school, "The [Illinois Supreme Court's] line of constitutional decisions commencing in 1886 in *Millett v. People*, 117 Ill. 294, incorporating into the life, liberty and property clause of the state constitution the governmental policy of laissez faire. . . ., elevating that policy into a rule of constitutional law limiting the legislative power of the State, has made the Illinois legislature a legally insignificant and despised legislature, legally incapable of rising above the opening and division of a jack pot if it wanted to, useless and impotent to pass adequate laws regulating the relation of employer and employee and of union workmen and non-union workmen" (8 Illinois Law Review 133 [June, 1913]).



omitted. The mining code is more fully developed than any other, but excellent laws regulate child labor, and provide for the health, safety, and comfort of persons employed in factories and workshops. There are, however, several important gaps in the Illinois labor code which remain to be filled, and many instances in which standards should be improved. Most people who are familiar with problems of labor legislation will agree that benefits under the Workmen's Compensation Act should be made more nearly commensurate with the actual losses sustained by the worker; that legislation should be enacted further restricting the hours of employment for women and abolishing the excessively long hours now required of men in some industries; that one day of rest in seven should be provided by law; that legal aid should be given workers who are unable to prosecute wage claims, claims for compensation under the Workmen's Compensation Act, and other similar cases; that coal mines should be rock-dusted; that thorough reporting of industrial accidents should be required in order that intelligent accident prevention may be practiced; that the state should do what it can to meet the problem of unemployment whether by providing a better co-ordinated system of free employment offices, or by the less valuable method of systematic distribution of public work, and that an adequate system of administration of the labor law should be provided, inasmuch as labor laws are no better than their enforcement.

Gaps of a much more controversial nature, but which the writer believes should be filled on the ground that good public policy requires that the state aid groups which are helpless whether from old age, sickness, or economic pressure which forces them below the plane of self-help, are a further development of social insurance, especially insurance against sickness, old age, and unemployment, and the passage of minimum-wage laws, where needed, for men, women, and children. Some of this legislation would, of course, be unconstitutional under the present social philosophy of the courts.

Perhaps the most needed development is a code defining the rights and responsibilities of labor organizations and placing them



on a practical equality with employers. The present chaotic and restrictive (in comparison with the rights of employers) hodge-podge of common and statutory law is promotive of much uncertainty on all sides and of much hostility on the side of labor. The abstract right to organize has been granted, but in practice this does not mean equality before the law. In the interest of industrial peace and of a more whole-hearted co-operation in production by workingmen, it seems that the law should rest as nearly equally as possible upon both workingmen and their employers.<sup>1</sup> If one side is to be restricted the other should be restricted also to the same degree. If one side is to be unrestricted the other side should be unrestricted also.

The success attained in convincing the Supreme Court that the women's ten-hour law was a proper exercise of the police power of the state gives a clue to the proper method to be followed in the future, not only in the courts, but also in the legislature and before the people at large. In the women's ten-hour case, the facts brought to the notice of the court were indisputable and were skilfully marshalled. It seems reasonable to believe that further advances in labor legislation may be secured if similar methods are followed. Illinois needs to have thorough scientific investigations of industrial problems by official commissions in order that the facts may be made known. It has had valuable investigations in the past, especially that of the Health Insurance Commission, but more investigations of this standard of excellence are needed. The facts made known by these investigations should be widely disseminated in order that the public, the legislature, and the courts may have a factual basis for action and in order that they may not be hoodwinked by insidious propaganda of selfish interests. Every effort should be made to secure the co-operation of the groups directly affected by any proposed law, since agreement upon legislative measures is the surest and easiest way to obtain the enactment and observance of labor laws.

<sup>1</sup> This will involve, among other things, a thoroughgoing reconsideration of "personal rights" and "property rights" in order that proper emphasis may be placed upon each.

## BIBLIOGRAPHY

### OFFICIAL DOCUMENTS AND REPORTS

- ANDROS, S. O., *Coal Mining in Illinois*, Bulletin No. 13, Illinois Coal Mining Investigations (Co-operative Agreement), 1915.
- BARNUM, GERTRUDE, *Hours of Labor for Women in Wisconsin* (Report to United States Commission on Industrial Relations), 1914.
- CHICAGO, MAYOR'S COMMISSION ON UNEMPLOYMENT, *Report*, 1914.
- CHICAGO MUNICIPAL MARKETS COMMISSION, *Report*, 1914.
- DODD, W. F., *Report on the Administration of Labor and Mining Legislation in Illinois*, 1914.
- FLEMING, J. R., AND HOSKIN, A. J., *A Study of Coal Mine Haulage in Illinois*, Bulletin No. 132, University of Illinois, Engineering Experiment Station, 1922.
- FLEMING, J. R., AND KOSTER, JOHN W., *The Use of Permissible Explosives in Illinois*, Bulletin 137, United States Bureau of Mines, 1917.
- HOLBROOK, E. A., AND FRASER, THOMAS, *Screen Sizing of Coal, Ores and Other Minerals*, Bulletin 234, United States Bureau of Mines.
- ILLINOIS ATTORNEY GENERAL, *Biennial Report*.
- ILLINOIS BUILDING INVESTIGATION COMMISSION, *Report*, 1923.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Annual Coal Report*.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Biennial Report*.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Bulletin on Workmen's Compensation Act*, 1912.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Labor Legislation of the 46th General Assembly*, 1909.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Labor Legislation of the 47th General Assembly*, 1911.
- ILLINOIS BUREAU OF LABOR STATISTICS, *Labor Legislation of the 48th General Assembly*, 1913.

ILLINOIS BUREAU OF LABOR STATISTICS, *Report on the Cherry Mine Disaster*, 1910.

ILLINOIS COAL MINING INVESTIGATIONS (Co-operative Agreement), *Preliminary Report on Organization and Method of Investigations*, 1913.

ILLINOIS COAL MINING INVESTIGATIONS (Co-operative Agreement), *Bulletin No. 13*.

ILLINOIS COMMISSION ON OCCUPATIONAL DISEASES, *Report*, 1909 and 1911.

ILLINOIS CONSTITUTIONAL CONVENTION, *Debates and Proceedings*, 1869-70.

✓ ILLINOIS DEPARTMENT OF FACTORY INSPECTION, *Annual Report*.

✓ ILLINOIS DEPARTMENT OF LABOR, *Annual Report*.

✓ ILLINOIS DEPARTMENT OF LABOR, *Statistical Reports*.

✓ ILLINOIS DEPARTMENT OF LABOR, *The Employment Bulletin*.

✓ ILLINOIS DEPARTMENT OF LABOR, *The Labor Bulletin*.

ILLINOIS, *Administrative Report of the Directors of Departments under the Civil Administrative Code*.

✓ ILLINOIS EMPLOYERS' LIABILITY COMMISSION, *Report*, 1910.

ILLINOIS FREE EMPLOYMENT OFFICES, *Annual Report*.

✓ ILLINOIS GENERAL ASSEMBLY, HOUSE OF REPRESENTATIVES, *House Debates*.

✓ ILLINOIS GENERAL ASSEMBLY, SENATE, *Senate Debates*.

✓ ILLINOIS GENERAL ASSEMBLY, *Journal of the House of Representatives*, cited as *House Journal*.

✓ ILLINOIS GENERAL ASSEMBLY, *Journal of the Senate*, cited as *Senate Journal*.

✓ ILLINOIS GENERAL ASSEMBLY, HOUSE, *Report of the Special Committee on Labor*, 1879.

ILLINOIS GENERAL ASSEMBLY, SENATE, *Report of the Senate Vice Committee*, 1916.

ILLINOIS HEALTH INSURANCE COMMISSION, *Report*, 1919.

ILLINOIS INDUSTRIAL INSURANCE COMMISSION, *Report*, 1906.

ILLINOIS INDUSTRIAL SURVEY, *Report*, 1918.

ILLINOIS LEGISLATIVE REFERENCE BUREAU, *Legislative Digest*.

ILLINOIS LEGISLATIVE REFERENCE BUREAU, *Constitutional Convention Bulletins*, 1920.

ILLINOIS MINERS' AND MECHANICS' INSTITUTES, *Bulletin No. 1*.

ILLINOIS MINING INVESTIGATION COMMISSION, *Reports*.

*Illinois Session Laws*, cited as *Laws of 1927* (for example).

ILLINOIS STATE BOARD OF ARBITRATION, *Annual Report*.

ILLINOIS STATE BOARD OF PRISON INDUSTRIES, *Report*, 1904-5.

*Illinois State Constitution*, 1818, 1848, and 1870.

NOVA SCOTIA, DEPARTMENT OF PUBLIC WORKS AND MINES, *Annual Report of the Mines*, 1915.

RICE, GEO. S., *The Explosibility of Coal Dust*, Bulletin No. 20, United States Bureau of Mines, 1911.

STOEK, H. H., FLEMING, J. R., AND HOSKIN, A. J., *Study of Coal Mining in Illinois*.

TRACY, L. D., AND HENDRICKS, R. W., *Small Hose Streams for Fighting Mine Fires*, Technical Paper No. 330, United States Bureau of Mines.

UNITED STATES BUREAU OF LABOR STATISTICS, *Bulletins* 68, 109, 175, 229, 248, 273, 304, 406, 408.

UNITED STATES BUREAU OF LABOR STATISTICS, *Monthly Labor Review*.

UNITED STATES BUREAU OF MINES, *Bulletins* 20, 75, 137, 234.

UNITED STATES BUREAU OF MINES, *Technical Paper No. 330*.

*United States Census Reports*.

UNITED STATES CHILDREN'S BUREAU, *Publications* 78, 114, 168.

UNITED STATES COMMISSION ON INDUSTRIAL RELATIONS, *Final Report*, 1915.

UNITED STATES COMMISSION ON INDUSTRIAL RELATIONS, *Hours of Labor for Women in Wisconsin*, report made by Gertrude Barnum, 1914.

UNITED STATES CONGRESS, *Congressional Record*, XVIII, Part 3.

UNITED STATES CONGRESS, HOUSE OF REPRESENTATIVES, 62D CONGRESS, 2D SESSION, *Hearings before the Committee on the Judiciary*, January 19, 1912.

UNITED STATES CONGRESS, SENATE, 70TH CONGRESS, 1ST SESSION,



*Hearings before a Sub-Committee of the Committee on the Judiciary on S. 1482, 1928.*

UNITED STATES CONGRESS, SENATE, *Report of Committee on Relations between Labor and Capital, 1885.*

UNITED STATES DEPARTMENT OF LABOR, *Bulletin, September, 1897; September, 1904.*

UNITED STATES GEOLOGICAL SURVEY, *Mineral Resources of the United States, 1922.*

UNITED STATES INDUSTRIAL COMMISSION, *Report, 1901.*

#### BOOKS AND PAMPHLETS

ADDAMS, JANE, *Twenty Years at Hull-House, 1910.*

ALTGELD, JOHN P., *Reasons for Pardoning Fielden, Neebe and Schwab, 1893.*

ALTGELD, JOHN P., *Live Questions, 1899.*

ANDREAS, A. T., *History of Chicago, 1884-86.*

ANGERSTEIN, GEO. W., *The Employer and the Workmen's Compensation Act of Illinois, 1923.*

BOYD, JAMES H., *Workmen's Compensation, 1913.*

BRANDEIS, LOUIS D., *Brief in the Case of Ritchie versus Wayman, 1909.*

BROWNE, WALDO R., *Altgeld of Illinois, 1924. Centennial History of Illinois.*

CHICAGO, CITY HOMES COMMITTEE, INVESTIGATING COMMITTEE REPORT, *Tenement Conditions in Chicago, 1901.*

CHICAGO FEDERATION OF LABOR, *Protection of the Health and Motherhood of the Working Women of Illinois, 1909.*

CHICAGO INDUSTRIAL EXHIBIT, *Handbook, 1907.*

CIVIC FEDERATION OF CHICAGO, *Congress on Industrial Conciliation and Arbitration, 1894.*

COMMONS AND ANDREWS, *Principles of Labor Legislation, 1927.*

COMMONS AND ASSOCIATES, *History of Labour in the United States, 1918.*

COOKE, F. H., *The Law of Combinations, Monopolies and Labor Unions, 1908.*

DOWNEY, E. H., *History of Work Accident Indemnity in Iowa*, 1912.

DOWNEY, E. H., *Workmen's Compensation*, 1924.

ELY, R. T., *The Labor Movement in America*, 1895.

FRANKEL AND DAWSON, *Workingmen's Insurance in Europe*, 1910.

*Hull-House Maps and Papers*, 1895.

*Hurd's Revised Statutes*.

JUSTI, HERMAN, *Sundry Papers and Addresses on Labor Problems*, 1906.

KELLOR, FRANCES A., *Out of Work*, 1904.

LABATT, *Master and Servant*, VII (1913).

MARTIN, W. A., *Modern Law of Labor Unions*, 1910.

MASON, A. T., *Organized Labor and the Law*, 1925.

MORGAN, GERALD, *Public Relief of Sickness*, 1922.

MYERS, H. B., *Policing of Industry* (in manuscript at the University of Chicago).

NATHAN, MAUD, *The Story of an Epoch-Making Movement*, 1926.

PARSONS, LUCY E., *Life of Albert R. Parsons*, 1889.

POWDERLY, TERENCE V., *Thirty Years of Labor*, 1890.

ROY, ANDREW, *History of the Coal Miners of the United States*, 1907.

RUBINOW, I. M., *Social Insurance*, 1913.

SCHNEIDER, GEO. A., *Workmen's Compensation Act of Illinois*, 1912-19.

SCHNEIDER, GEO. A. *Workmen's Compensation Act of Illinois*, Supplementary volume, 1919-21.

STALEY, EUGENE, *History of the Illinois State Federation of Labor* (in manuscript at the University of Chicago).

TAYLOR, GRACE G., *Civilian Vocational Rehabilitation*, 1926 (in manuscript at the University of Chicago).

WOMEN'S TRADE UNION LEAGUE OF CHICAGO, *The Eight Hour Fight in Illinois*, 1909.

WOMEN'S TRADE UNION OF ILLINOIS, *Extension of the Ten Hour Law*, 1911.

#### NEWSPAPERS AND PERIODICALS

ABBOTT, GRACE, "The Chicago Employment Agency and the Immigrant Worker," *American Journal of Sociology*, November, 1908.

- AMERICAN ASSOCIATION FOR LABOR LEGISLATION, *American Labor Legislation Review*.
- AMERICAN ASSOCIATION FOR LABOR LEGISLATION, *Proceedings of the Annual Meeting*.
- AMERICAN ASSOCIATION FOR LABOR LEGISLATION, *Standards for Workmen's Compensation*, 1928.
- AMERICAN ECONOMIC ASSOCIATION, *Proceedings*, 1908.
- AMERICAN MINING CONGRESS, *Proceedings of the Annual Convention*.
- AMERICAN MINING CONGRESS, *Mining Congress Journal*.
- ANNALS OF THE AMERICAN ACADEMY, XXXIII (1909), CXXIV (March, 1926).
- ASSOCIATION OF OFFICIALS OF BUREAUS OF LABOR STATISTICS OF AMERICA, *Proceedings of the Annual Convention*.
- BEMENT, A., "The Screening Problem in Illinois," *Coal Age*, June 1, 1912.
- Bloomington (Illinois) Trades Review*.
- BOGART, E. L., "Public Employment Offices in the United States and Germany," *Quarterly Journal of Economics*, May, 1900.
- Bridgemen's Magazine*, December, 1901.
- CAHN, R. D., "Civilian Vocational Rehabilitation," *Journal of Political Economy*, XXXII.
- Charities*.
- Charities and the Commons*.
- CITY CLUB OF CHICAGO, *Bulletin*.
- ✓ *Chicago Daily News*.
- ✓ *Chicago Federationist*.
- ✓ *Chicago Legal News*, XVIII.
- ✓ *Chicago Times*.
- ✓ *Chicago Tribune*.
- Cigar Makers' Official Journal*.
- CIVIC FEDERATION OF CHICAGO, *First Annual Report of the Central Council*, 1895.
- Coal Age*.
- DAVIES, EDGAR T., "The Present Situation in Illinois," *Annals of the American Academy*, XXXIII.

DINSMOOR, A., "The Run of Mine System in Illinois," *Coal Age*, March 9, 1912.

DUNLOP, JOHN, "Some Unreduced Death Rates in Illinois," *Coal Age*, June 28, 1913.

*Eight Hour Herald*.

*Fuel Magazine*.

GOSNELL, STEVE, "Proper and Lawful Examination of a Mine," *Coal Industry*, August, 1919.

HENDERSON, C. R., "How Chicago Met the Unemployment Problem," *American Journal of Sociology*, May, 1915.

ILLINOIS JOINT COMMITTEE FOR THE WOMEN'S EIGHT-HOUR BILL, *Women's Eight-Hour Day Bulletin*, April, 1927.

*Illinois Law Review*, VIII, XVII.

ILLINOIS STATE FEDERATION OF LABOR, *Proceedings of the Annual Convention*.

ILLINOIS STATE FEDERATION OF LABOR, *Report of the Joint Labor Legislative Board*.

ILLINOIS STATE FEDERATION OF LABOR, *Weekly News Letter*.

*Illinois State Register*.

INTERNATIONAL ASSOCIATION OF FACTORY INSPECTORS, *Proceedings of the Annual Convention*.

INTERNATIONAL ASSOCIATION OF PUBLIC EMPLOYMENT SERVICES, *Proceedings of the Annual Meeting*.

KELLEY, FLORENCE, "Laws for Protection of Children," *American Journal of Sociology*, X.

*Knights of Labor*.

*Law and Labor*.

LEAGUE FOR THE PROTECTION OF IMMIGRANTS, *Annual Report*.

*Life and Labor*.

*Mines and Minerals*.

*Mining World*.

NATIONAL ASSOCIATION OF OFFICIALS OF BUREAUS OF LABOR STATISTICS IN THE UNITED STATES, *Proceedings of the Annual Convention*.

NATIONAL CHILD LABOR COMMITTEE, *Proceedings of the Annual Conference*.



NATIONAL CHILD LABOR COMMITTEE, *Uniform Child Labor Laws*, 1911.

NATIONAL CONSUMERS' LEAGUE, *Annual Report*.

NATIONAL CONSUMERS' LEAGUE, *Handbook*, 1903, 1904, 1905, 1906.

OFFICIALS OF BUREAUS OF LABOR STATISTICS OF AMERICA, *Proceedings of the Annual Convention*.

POUND, ROSCOE, "Liberty of Contract," *Yale Law Journal*, XVIII, No. 7 (1909).

*Rights of Labor*.

*The Survey*.

*Union Labor Advocate*.

UNITED MINE WORKERS OF AMERICA, *Journal*.

UNITED MINE WORKERS OF AMERICA, DISTRICT 12, *Proceedings of the Annual Convention*.

WILLIAMS, R. Y., "Rescue Stations in Illinois Coal Mining Localities," *The Mining World*, May 7, 1910.

WOMEN'S TRADE UNION LEAGUE OF CHICAGO, *Annual Report*.

WOMEN'S TRADE UNION LEAGUE OF CHICAGO, *Biennial Report*.

## TABLE OF CASES CITED

### CHAPTER II

- American Cigar Co. v. Berger*, 221 Ill. App. 299 (1921).  
*Am. D. T. Co. et al. v. Electricians*, No. B, 157349, Circuit Court of Cook Co., Ill. (1928).  
*Anderson & Lind Mfg. Co. v. Carpenters Dist. Council*, 308 Ill. 488 (1923).  
*Bailey v. Alabama*, 219 U.S. 219 (1910).  
*Barnes v. Chicago Typog. Union No. 16*, 232 Ill. 424 (1908).  
*Beaton v. Tarrant*, 102 Ill. App. 124 (1902).  
*Boston Store v. Retail Clerks*, 216 Ill. App. 428 (1920).  
*Brimms v. People*, 226 Ill. App. 505 (1922).  
*Bruschke v. Furniture Makers' Union*, 18 C.L.N. 306 (1886).  
*Carlson v. Carpenter Contractors' Assn.*, 305 Ill. 331 (1922).  
*Carpenters Union v. Citizens' Committee*, 244 Ill. App. 540 (1927).  
*Chicago Typog. Union No. 16 v. Barnes*, 134 Ill. App. 11 (1907).  
*Christensen v. Kellogg Switchboard and Supply Co.*, 110 Ill. App. 61 (1903).  
*Christensen v. People*, 114 Ill. App. 40 (1904).  
*Cohn v. People*, 149 Ill. 486 (1894).  
*Doremus v. Hennessy*, 176 Ill. 608 (1898).  
*Duplex Prtg. Press Co. v. Deering*, 254 U.S. 443 (1921).  
*Franklin Union No. 4 v. People*, 121 Ill. App. 647 (1905).  
*Franklin Union No. 4 v. People*, 220 Ill. 355 (1906).  
*Fiske v. People*, 188 Ill. 207 (1900).  
*Gillespie v. People*, 188 Ill. 176 (1900).  
*Henrici v. Alexander*, 198 Ill. App. 568 (1916).  
*Hey v. Wilson*, 128 Ill. App. 227 (1906).  
*Holden v. City of Alton*, 179 Ill. 318 (1899).  
*Illinois Malleable Iron Co. v. Michalek*, 279 Ill. 221 (1917).  
*Kemp v. Div. 241 Amal. Assn. St. and Elect. R. Emp.*, 153 Ill. App. 344 (1910).

- Kemp v. Div. 241 Amal. Assn. St. and Elect. R. Emp.*, 255 Ill. 213 (1912).
- London Guarantee and Accident Co. v. Horn*, 101 Ill. App. 355 (1902).
- Mathews v. People*, 202 Ill. 389 (1903).
- McDonald v. Ill. Cent. R. Co.*, 187 Ill. 529 (1900).
- Mears Slayton Lbr. Co. v. Dist. Council Carpenters and Joiners*, 156 Ill. App. 327 (1910).
- More v. Bennett*, 140 Ill. 69 (1892).
- O'Brien v. People*, 216 Ill. 354 (1905).
- Ossey v. Retail Clerk's Union*, 326 Ill. 405 (1927).
- People v. Butler St. Foundry Co.*, 201 Ill. 236 (1903).
- People v. Lloyd*, 304 Ill. 23 (1922).
- People v. Seefeldt*, 310 Ill. 441 (1923).
- People v. Young*, 188 Ill. App. 208 (1914).
- Piano and Organ Workers' Union v. Piano and Organ Supply Co.*, 124 Ill. App. 353 (1906).
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